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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 89-054]

Gypsy Moth Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the Gypsy Moth Quarantine and Regulations by (1) adding North Carolina and Utah to the list of states quarantined because of gypsy moth; (2) removing regulated areas in Oregon from the list of gypsy moth low-risk areas and removing Oregon from quarantined status; (3) designating previously nonregulated areas in North Carolina as gypsy moth low-risk areas; (4) designating previously nonregulated areas in Utah and Virginia as gypsy moth high-risk areas; and (5) redesignating portions of regulated areas in Ohio from gypsy moth low-risk areas to gypsy moth high-risk areas. The regulations restrict the interstate movement of certain articles from gypsy moth high-risk and low-risk areas. This rule is necessary to prevent the spread of gypsy moth and to remove unnecessary restrictions on the interstate movement of certain articles.

DATES: Interim rule effective July 26, 1989. Consideration will be given only to comments received on or before September 25, 1989.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Helene R. Wright, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 89-054. Comments may be inspected at Room 1141 of the South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Tom G. Flanigan, Operations Officer, Program Support Staff, PPQ, APHIS, USDA, Room 646, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION:

Background

The gypsy moth, *Lymantria dispar* (Linnaeus), is a destructive pest of forest trees. The Gypsy Moth Quarantine and Regulations (contained in 7 CFR 301.45 *et seq.*, and referred to below as the regulations), quarantine certain states because of the gypsy moth, and restrict the interstate movement from regulated areas of certain articles to prevent the artificial spread of the gypsy moth.

Areas designated as gypsy moth regulated areas are those areas in which a gypsy moth infestation has been found by an inspector, areas regulated because of the proximity to gypsy moth infestation, or areas inseparable from infested localities for quarantine enforcement purposes. Regulated areas are divided into high-risk areas and low-risk areas. Under the regulations an area is designated as a high-risk area when an inspector determines that regulated articles exist within or adjacent to an area where defoliation has occurred or where an inspector has reason to believe that 50 or more egg masses per acre of the gypsy moth are present. Low-risk areas are those portions of regulated areas that are not designated as high-risk areas.

Section 301.45-3 of the regulations imposes the following conditions on the movement of regulated articles from gypsy moth regulated areas:

(a) A regulated article shall not be moved interstate from any high-risk area into or through any nonregulated area unless a certificate or permit has been issued and attached to such regulated articles in accordance with §§ 301.45-4 and 301.45-7.

(b) A regulated article shall not be moved interstate from any low-risk area into or through any nonregulated area when it is determined by an inspector that any life stage of the gypsy moth is on the regulated article, and the person in possession thereof has been so notified by an inspector, unless a certificate or permit has been issued and attached to such articles in accordance with §§ 301.45-4 and 301.45-7.

(c) A regulated article originating outside of any high-risk area, except any regulated article in any low-risk area determined by an inspector to present a hazard of spreading the gypsy moth pursuant to paragraph (b) of this section, may be moved interestate directly through any high-risk area without a certificate or permit, if the point of origin of the article is clearly indicated by shipping documents, their identity has been maintained, and they have been safeguarded against infestation while in any high-risk area.

Section 301.45-11 of the regulations imposes the following conditions on the interstate movement of outdoor household articles from gypsy moth high-risk areas:

(a) No outdoor household article shall be moved interstate from a gypsy moth high-risk area into or through any nonregulated area unless;

(1) Such outdoor household article is free from all life stages of the gypsy moth at the time of the interstate movement; or

(2) Such outdoor household article [OHA] is accompanied by an OHA document issued by a qualified certified applicator in accordance with the provisions of §§ 301.45-12 and 301.45-13 within five calendar days of the interstate movement from a gypsy moth high-risk area; or

(3) Such outdoor household articles are brought in by vacationers to the gypsy moth high-risk areas.

These regulations are designed to restrict the interstate movement of regulated articles in those circumstances where there would be a significant risk of spread of gypsy moth. A certificate or limited permit is authorized to be issued based on treatment of a regulated article or based on a determination that movement of a regulated article without treatment would not result in the spread of the gypsy moth.

Designation of Areas as Low-Risk Areas; Addition of North Carolina as a Quarantined State

We are amending § 301.45-2a of the regulations by designating all or portions of Currituck and Dare Counties in North Carolina as gypsy moth low-risk areas and amending § 301.45(a) of the regulations by adding North Carolina to the list of quarantined states.

Based on state and federal surveys, inspectors have determined that infestations of gypsy moth occur in these areas designated as gypsy moth

low-risk areas, but that the number of egg masses per acre is not high enough to meet the criteria described below for gypsy moth high-risk areas.

Restrictions concerning the gypsy moth are imposed on movements of regulated articles from gypsy moth low-risk areas only if it is determined by an inspector that any life stage of the gypsy moth is on the regulated article, and the person in possession thereof has been so notified by an inspector, unless a certificate or permit has been issued and attached to the regulated article in accordance with §§ 301.45 and 301.45–7 of the regulations. In this connection, it is necessary as an emergency measure to designate these areas as gypsy moth low-risk areas in order to advise persons of the likelihood that inspectors would conduct inspections in these areas and that, based on their findings of life stages of gypsy moth, restrictions could apply to the movement of regulated articles from these areas.

Removal of Area From List of Regulated Areas and Removal of State From Quarantine

We are amending § 301.45–2a of the regulations by removing Lane County, Oregon, from the list of gypsy moth low-risk areas. The removal of Lane County, Oregon, from the list of gypsy moth regulated areas is to remove all areas in Oregon from the list of regulated areas. As a result, there is no longer a basis for quarantining Oregon. Therefore, we are removing Oregon from the list of states quarantined because of gypsy moth in § 301.45(a).

Based on treatments with insecticides and subsequent negative surveys in accordance with the quarantine and regulations, it has been determined that the gypsy moth no longer occurs in the above-described area released from quarantine in Lane County, Oregon. Accordingly, there is no longer a basis for continuing to list this area as a regulated area for the purpose of preventing the artificial spread interstate of gypsy moth. Therefore, as an emergency measure, it is necessary to remove this area from the list of regulated areas in order to delete unnecessary restrictions on the movement of gypsy moth regulated articles.

Designation of Areas as High-Risk Areas: Addition of Utah as a Quarantined State

This document also amends § 301.45–2a of the regulations by redesignating all or portions of areas in Ashtabula, Geauga, Lake, and Trumbull Counties in Ohio from gypsy moth low-risk to gypsy moth high risk areas; by designating previously nonregulated areas in the City of Suffolk, and Charles City, Chesterfield, Essex, Franklin, Isle of Wight, James City, King and Queen, King William, New Kent, Prince George, Surry and Sussex Counties in Virginia as gypsy moth high-risk areas; and by designating a portion of Salt Lake County in Utah as a gypsy moth high-risk area. Also, we are further amending § 301.45(a) of the regulations by adding Utah to the list of quarantined states.

The specific areas affected, as discussed above, are set forth in the regulation portion of this document.

Based on recent surveys, inspectors have determined, with respect to all of the areas added to the list of gypsy moth high-risk areas, that defoliation has occurred in these areas because of the gypsy moth or that there is reason to believe that 50 or more egg masses per acre of the gypsy moth are present in these areas. Also, outdoor household articles and regulated articles exist within or adjacent to these areas. Accordingly, there is a substantial risk of artificially spreading the gypsy moth by unrestricted interstate movement of these articles. Therefore, as an emergency measure, it is necessary to designate these areas as gypsy moth high-risk areas and impose restrictions on the interstate movement of outdoor household articles and regulated articles from these areas in accordance with the regulations in order to prevent the artificial spread of the gypsy moth.

Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that a situation exists that warrants publication of this rule without prior opportunity for public comment. Because of the possibility that the gypsy moth could be spread artificially to noninfested areas of the United States and because it could cause economic loss due to defoliation of susceptible forest areas, it is necessary to act immediately to control its spread. Also, where gypsy moth no longer occurs, or when there is reason to believe that the density of egg masses per acre has decreased sufficiently to remove the area from a gypsy moth high-risk or low-risk area classification, immediate action is needed to remove unnecessary restrictions on the interstate movement of regulated articles.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon publication. We will consider comments that are received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**, including a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This action affects the interstate movement of regulated articles from gypsy moth regulated areas in North Carolina, Ohio, Oregon, Utah and Virginia. For areas designated as high-risk areas, individual and commercial movers moving outdoor household articles to areas outside the quarantined area must determine that their articles are free of gypsy moth. Mobile home haulers, loggers, nurserymen, and firewood haulers are required to obtain a certificate or limited permit from an inspector that their articles are free of gypsy moth. For areas designated as low-risk areas, the same conditions apply for movement of regulated articles when it is determined by an inspector that the movement of an article presents a hazard of spreading the gypsy moth. For areas determined to be free of gypsy moth and deregulated, no restrictions are imposed for movement of regulated articles.

All regulated articles are inspected and certified without charge to the business. A business not requesting this service in advance of shipment may be delayed in moving the product until service can be provided. A homeowner moving outdoor household articles from a high-risk area to an uninfested area may pay a qualified certified applicator

(QCA) to inspect his goods. These charges average between $50–100. In some instances the company moving that person reimburses the mover for their expense. Most QCA's are small businesses. By declaring an area as a high-risk area the regulations may increase business for the QCA's located in high-risk areas. These businesses will average $50 to $150 per month in additional income per business. Approximately 153 new businesses will be trained to inspect outdoor household articles and will offer this service to the general public. Based on information compiled by the U.S. Department of Agriculture, it has been determined that there are many hundreds of small entities that move regulated articles interstate from gypsy moth regulated areas and many thousands of small entities that move regulated articles interstate from other states. However, based on such information, it has been determined that approximately 1,677 small entities move regulated articles interstate from the specified areas affected by this action.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372 which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (Agriculture), Quarantine, Transportation, Gypsy moth.

Accordingly, 7 CFR Part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162 and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§ 301.45 [Amended]

2. Section 301.45(a) is amended by adding "North Carolina," immediately after "New York,", by adding "Utah," immediately after "Rhode Island," and by removing the reference to "Oregon".

3. Section 301.45–2a is amended by adding in alphabetical order the following areas for North Carolina and Utah, and by revising the entries for Ohio and Virginia to read as follows:

§ 301.45–2a Regulated areas; high-risk and low-risk areas.

* * * * *

North Carolina

(1) *High-risk area.* None.

(2) *Low-risk area.*

Currituck County. The entire county.

Dare County. The area bounded by a line beginning at the intersection of State Road 1208 and Roanoke Sound; then easterly along this road to its junction with State Road 1206; then southerly along this road to its intersection with U.S. Highway Business 158; then easterly along an imaginary line to its intersection with the Atlantic Ocean; then northwesterly along the coastline to its intersection with the Dare-Currituck County line; then westerly along this county line to its intersection with the Currituck Sound; then southeasterly along this sound to the point of beginning.

* * * * *

Ohio

(1) *High-risk area.*

Ashtabula County. The entire county.

Geauga County. The townships of Chardon, Handen, Montville, and Thompson.

Lake County. The townships of Concord, Leroy, Madison, Painesville, and Perry.

Trumbull County. The townships of Bloomfield, Brookfield, Greene, Gustavus, Hartford, Johnston, Kinsman, Mesopotamia, and Vernon.

(2) *Low-risk area.*

Geauga County. The townships of Auburn, Bainbridge, Burton, Chester, Claridon, Huntsburg, Middlefield, Munson, Newbury, Parkman, Russell, and Troy.

Lake County. All of the county west of the Painsville and Concord Township line including the municipalities of Eastlake, Kirtland, Kirtland Hills, Lakeline, Mentor, Mentor on the Lake, Timberlake, Waite Hill, Wickliffe, Willoughby, Willoughby Hills and Willowick.

Trumbull County. The townships of Bazetta, Braceville, Bristol, Champion, Farmington, Fowler, Howland, Hubbard, Liberty, Lordstown, Mecca, Newton, Southington, Vienna, Warren, and Weathersfield.

* * * * *

Utah

(1) *High-risk area.*

Salt Lake County. That portion of the county bounded by a line beginning at the northwest corner of sec. 25, T. 1 S., R. 1 E.; running southerly along the west section line of this section to Interstate 215; then along this interstate to Wasatch Boulevard; then along this boulevard to the center of sec. 11 of T. 2 S., R. 1 E.; then easterly along an imaginary line to the southeast corner of the northeast quarter of sec. 7, T. 2 S., R. 2 E.; then northerly along an imaginary line to the northeast corner of sec. 30, T. 1 S., R. 2 E.; then westerly to the point of beginning.

(2) *Low-risk area.* None.

* * * * *

Virginia

(1) *High-risk area.*

City of Alexandria. The entire city.

City of Charlottesville. The entire city.

City of Chesapeake. The entire city.

City of Fairfax. The entire city.

City of Falls Church. The entire city.

City of Fredericksburg. The entire city.

City of Hampton. The entire city.

City of Harrisonburg. The entire city.

City of Manassas. The entire city.

City of Manassas Park. The entire city.

City of Newport News. The entire city.

City of Norfolk. The entire city.

City of Poquoson. The entire city.

City of Portsmouth. The entire city.

City of Suffolk. The entire city.

City of Virginia Beach. The entire city.

City of Waynesboro. The entire city.

City of Winchester. The entire city.

Accomack County. The entire county.

Albemarle County. The entire county.

Arlington County. The entire county.

Augusta County. That portion of the county east of Interstate 81 and north of Interstate 64.

Caroline County. The entire county.

Charles City County. The entire county.

Chesterfield County. The entire county.

Clarke County. The entire county.

Culpeper County. The entire county.

Essex County. The entire county.

Fairfax County. The entire county.

Fauquier County. The entire county.

Fluvanna County. The entire county.

Franklin County. The entire county.

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Rappahannock County. The entire county.
Richmond County. The entire county.
Rockingham County. The entire county.
Shenandoah County. The entire county.
Spotsylvania County. The entire county.
Stafford County. The entire county.
Surry County. The entire county.
Sussex County. The entire county.
Warren County. The entire county.
Westmoreland County. The entire county.
York County. The entire county.
(2) *Low-risk area.* None.

* * * * *

4. Section 301.45–2a is amended further by removing the entire description for Oregon.

Done in Washington, DC, on this 20th day of July, 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–17483 Filed 7–25–89; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–CE–10–AD; Amendment 39–6273]

Airworthiness Directives; British Aerospace (BAe) PLC, Jetstream Model HP 137 MK1, Models 200, 3101, and 3201 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to British Aerospace (BAe) PLC, Jetstream Model HP 137 Mk1, Models 200 and 3101, and certain Model 3201 airplanes which supersedes AD 88–21–08 R1, Amendment 39–6061. This new AD requires initial and recurring visual inspections of the securing rivet of the flap torque shaft universal joint and replacement of the torque shaft assembly if the rivet has failed or has excessive end play. It requires reinspection, and removal of BAe Modification JM 5313, if inappropriately installed, incorporates an optional modification which can be used in lieu of the reinspection requirement of AD 88–21–08 R1, and adds certain Model 3201 airplanes to the effectivity of the AD. A failed flap torque tube rivet was found during an air carrier inspection which could result in loss of control of the airplane due to asymmetric flap deployment. The actions of this AD will preclude this condition.

DATES: *Effective* August 24, 1989. *Compliance:* As prescribed in the body of the AD.

ADDRESSES: BAe Alert Service Bulletin (ASB) Jetstream 27–A–JA881041, Revision 2, dated March 10, 1989, Service Bulletin (S/B) Jetstream 27–JM 5313 Revision 2, dated April 21, 1989, and S/B 27–JM–5322, dated May 5, 1989, applicable to this AD may be obtained from British Aerospace (BAe) PLC, Manager, Product Support, Civil Aircraft Division, Prestwick Airport, Ayrshire, KA9 2RW, Scotland; Telephone (44–292) 79888; or British Aerospace Inc., Technical Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041; Telephone (703) 435–9100. This information may also be examined at the Rules Docket, FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, MO 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Aircraft Certification Office, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B–1000 Brussels, Belgium; Telephone (322) 513.38.30; or Mr. John P. Dow Sr., Project Support Section-Foreign, ACE–109, 601 E. 12th Street, Kansas City, MO 64106; Telephone (816) 426–6932.

SUPPLEMENTARY INFORMATION: This amendment supersedes AD 88–21–08 R1, Amendment 39–6061 (53 FR 46865, November 21, 1988). During an inspection of a BAe Jetstream wing flap actuation system, an air carrier discovered a failed securing rivet in the flap torque shaft universal joint. If this failed rivet was left uncorrected, asymmetric flap deployment could occur with resultant loss of control of the airplane. As a result, the manufacturer issued service information to detect and remedy this problem by describing procedures to inspect the securing rivet in the flap torque shaft universal joint, and replace the torque shaft assembly if the securing rivet has failed.

Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by priority mail letter dated October 14, 1988. The AD became effective immediately to these individuals upon receipt of that letter, and is identified as AD 88–21–08.

Minor editorial changes, and a clarification of paragraph (a)(1) of the AD was made by the addition of paragraph (a)(3) based upon comments received from the public. As a result, the AD was revised and reissued as AD 88–21–08 R1. Subsequent to the issuance of AD 88–21–08 R1, BAe issued SB Jetstream 27–JM 5313 Revision 2, dated April 21, 1989, which describes modifications JM 5313, and SB Jetstream 27–JM 5322, dated May 5, 1989, which describes modification JM 5322 to provide retention of the flap torque tube universal joint securing rivets, one for each of two variants of the universal joint design. The FAA evaluated these changes and found them to be an equivalent means of compliance to the reinspection requirements of paragraph (a)(3) of the AD 88–21–08 R1.

Further, BAe issued BAe ASB 27–A–JA881041 Revision 2, dated March 10, 1989, to account for the joint configuration variant, reinspection and removal of JM 5313 when inappropriately installed, appropriate installation of modification JM 5322, and to include early BAe 3201 airplanes in the effectivity. BAe ASB 27–JM5313 Revision 2, dated April 21, 1989, corrected the reinspection interval from 1200 landings to 1200 hours time-in-service.

The Civil Aviation Authority (CAA), who has responsibility and authority to

maintain the continuing airworthiness of these airplanes in the United Kingdom (UK), has classified this ASB and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under UK registration, this action has the same effect as an AD on airplanes certificated for operation in the United States. The FAA relies upon the certification of CAA–UK combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of BAe ASB Jetstream 27–A–JA881041, Revision 2, dated March 10, 1989, and the mandatory classification of this ASB by the CAA–UK. Based on the foregoing, the FAA has determined that the condition described herein is an unsafe condition that may exist or develop on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued superseding AD 88–21–08 R1 which requires inspection of airplanes modified by BAe S/B Jetstream 27–JM 5313, removal if inappropriate, initial and recurring visual inspections of the securing rivet of the flap torque shaft universal joint and replacement of the universal joint assembly if the rivet has failed on British Aerospace (BAe) PLC, Jetstream Model HP 137 Mk1, Models 200, 3101, and certain 3201 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsiblities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that his regulation is an emergency regulation that is not major under section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of 14 CFR Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By superseding AD 88–21–08 R1, Amendment 39–6061 with the following new AD:

British Aerospace (BAe) PLC: Applies to BAe Jetstream Model HP 137 Mk1, Models 200, 3101, (all serial numbers (S/N)) and 3201 airplanes (S/Ns 790, 800, 805, 810, 814, 818, 819, 821, 823, 824, and 828) certificated in any category.

Compliance: Required as indicated, unless already accomplished per AD 88–21–08 R1.

To prevent loss of airplane control due to asymmetric flap deployment, accomplish the following:

(a) For airplanes which have BAe Modification JM 5313 installed, within the next 50 cycles (1 cycle equals 1 takeoff and 1 landing) after the effective date of this AD inspect the universal joint as described in Appendix 2 of ASB 27–A–JA881041 Revision 2, dated March 10, 1989.

(1) If BAe Modification JM 5313 is appropriately installed, visually reinspect thereafter at 1200 hour time-in-service (TIS) intervals.

(2) If Modification JM 5313 is inappropriately installed, prior to further flight remove the modification and continue reinspection at the appropriate intervals specified in paragraph (b) following.

(b) Upon the accumulation of 2,000 cycles or within the next 25 cycles, whichever occurs later after the effective date of this AD, visually and tactilely (by feel) inspect the securing rivet on the left hand and right hand universal joints of the flap torque shaft as specified in BAe Jetstream Alert Service Bulletin (ASB) 27–A–JA881041, Revision 2, dated March 10, 1989. For each such universal joint:

(1) If the rivet has failed, or the vertical displacement of the rivet exceeds 0.040 inches, prior to further flight replace the torque shaft assembly with a serviceable part and inspect the replacement part upon the accumulation of 2,000 cycles.

(2) If the vertical displacement of the rivet is end float only and does not exceed 0.040 inches as described in the above ASB as amended, repeat the inspection specified in paragraph (b) above thereafter at intervals not to exceed 50 cycles.

(3) If the rivet has not failed, and has no end float, repeat the inspection specified in paragraph (b) above thereafter at intervals not to exceed 200 cycles.

(c) If BAe Modification JM 5322 is appropriately installed, visually reinspect thereafter at 1200 hour TIS intervals.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An equivalent means of compliance may be used if approved by the Manager, Brussels Aircraft Certification Office, FAA, AEU–100, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to British Aerospace Inc., Technical Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041; Telephone (703) 435–9100; or British Aerospace PLC, Aircraft Group, Scottish Division, Prestwick Airport, Ayrshire KA9 2RW U.K. (44–292) 79888; or may examine these documents at the FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment supersedes AD 88–21–08 R1, Amendment 37–6061.

This amendment becomes effective on August 24, 1989.

Issued in Kansas City, Missouri, on July 12, 1989.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–17466 Filed 7–25–89; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 82-ANE-21; Amdt. 39-6271]

Airworthiness Directives; Hamilton Standard Hydromatic (Noncounterweighted) Propeller Models 22D30, 22D40, 23D40, 23E50, 23E60, 24D50, 24E60, 33D50, 33E60, 34D50, 34D51, 34E60, 43D50, 43D51, 43E60, and 43H60.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires repetitive corrosion inspections on certain Hamilton Standard propeller models. This AD is needed in order to provide the means to increase the repetitive inspection intervals up to 60 months. The AD is based on past inspection results where little or no corrosion was found and the repetitive inspection interval was increased on an individual basis without adversely affecting safety.

DATES: *Effective*—September 15, 1989.

Compliance—As indicated in the body of the AD.

ADDRESSES: The applicable technical information may be obtained from Hamilton Standard, One Hamilton Road, Windsor Locks, Connecticut 06096, or may be examined in the Regional Rules Docket, Room 311, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Frank Walsh, Boston Aircraft Certification Office, ANE-153, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7066.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to amend an existing AD requiring repetitive corrosion inspection on certain Hamilton Standard propeller models was published in the **Federal Register** on Fedruary 13, 1989.

The proposal was promopted by substantiating engineering data and past inspection results that FAA has on record where little or no corrosion was found, and the repetitive inspection interval was increased on an individual basis without adversely affecting air safety.

This amendment further amends amendment 39-4133, as amended by Amendment 39-4409, AD 81-13-06 R1, which currently requires repetitive corrosion inspections and repair, if necessary, on certain Hamilton Standard propeller blades, in accordance with Hamilton Standard Aluminum Blade Overhaul Manual No. 130B, dated March 1, 1980, previously incorporated by reference on June 28, 1982, in AD 81-13-06. After issuing Amendment 39-4409, the FAA determined that the inspection interval can be extended based on certain factors. These factors include past AD inspections, maintenance program plans, oil change intervals, aircraft operating environment, and the type of storage or hangar facilities. With the experience gained during the past several years by maintenance reviews and management of the aircraft operational factors, inspection interval extensions have been granted on an individual basis. Substantiating data submitted by each operator was confirmed by an FAA Airworthiness Inspector in support of those extensions. Based on the data presented to the FAA over the past eight years, it has been determined that the extensions to the inspection intervals may be allowed without adversely affecting safety provided no corrosion is found during inspection of the propeller blades. Therefore, the FAA is further amending Amendment 39-4133, as amended by Amendment 39-4409, by allowing the inspection interval to be increased up to 60 months when inspections show no evidence of corrosion.

Interested persons and aviation groups have been afforded the opportunity to participate in making of this amendment, and due consideration has been given to all relevant data and comments received. Seventy-one comments were received during the NPRM designated comment period time frame concerning the proposed rule.

Discussion of Comments

The comments received ranged from two comments not to amend the present AD to three comments for outright cancellation of the AD. Other comments recommended that the FAA's proposed extended inspection interval of 48 months be changed to anywhere from no longer than 36 months to every 10 years.

Six propeller repair stations reported that they have found many blades with corrosion when performing the inspection required by AD 81-13-06R1. Some of the blades and their corrosion have been observed and confirmed by the FAA.

An aircraft association submitted the results of a survey they conducted among their members which showed no reported evidence of corrosion when using the present inspection interval of previously granted interval extensions of up to 48 months.

Based on supportive data received and the results of previously granted extensions the FAA has changed the proposed maximum 48 month inspection interval to 60 months.

One commenter found the procedure to increase the inspection interval to be confusing. The FAA agrees and the procedure has been rewritten for clarity and to change the maximum inspection interval from 48 to 60 months.

Several commenters objected to reverting to the 18 month inspection interval if corrosion is found after the inspection interval has been extended. The FAA agrees and the AD has been rewritten to require reversion to the 18 month inspection interval only if corrosion is found severe enough to be beyond allowable repair limits. Any other corrosion found which is within repairable limits will freeze the inspection interval to the interval at which the corrosion is found.

Many commenters stated that installing the corrosion barrier required by AD 57-13-05 should eliminate the need for repetitive inspections. Another commentor stated that the propeller corrosion barrier required by AD 57-13-05 was for the purpose of protecting the blade from the corrosive effects of the adhesive used to hold the teflon strip to the blade. The teflon strip provides a surface for the blade seal to ride on and has nothing to do with preventing corrosion of the type seen in later years.

Two commenters pointed out the numerous environmental and usage factors that can affect corrosion. The FAA agrees that there are many factors that affect corrosion but most of them are difficult to quantify for the purpose of complying with an AD. Past experience shows that the predominant factor to consider when extending the inspection interval is the lack of corrosion found during the interval.

Finally, several commenters believed that the proposal was for a new AD and objected to the conclusion that the proposed regulation involved no cost to operators. The FAA is aware that inspections are costly and the conclusion of no cost to operators pertained only to the lack of additional cost associated with the proposed amendment to extend the inspection interval.

The regulations adopted herein do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels

of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation involves no additional cost to the operators beyond that required by the existing AD. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Propellers, Air transportation, Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends 14 CFR Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by amending Amendment 39–4133 (47 FR 27845; June 28, 1982), AD 81–13–06 as amended by Amendment 39–4409 (47 FR 36217; August 19, 1982), AD 81–13–06 R1. The AD is restated in its entirety for clarity as follows:

Hamilton Standard: Applies to Hamilton Standard Hydromatic (noncounterweighted) propellers with aluminum blades that use engine oil for pitch control (does not apply to propellers with integral oil control or to propellers with steel blades) of the following types: 22D30, 22D40, 23D40, 23E50, 23E60, 24D50, 24E60, 33D50, 33E60, 34D50, 34D51, 34E60, 43D50, 43D51, 43E60, and 43H60, as installed on various reciprocating engine powered aircraft such as, but not limited to: Beech D17 and D18, Boeing 377 series, Canadair Model 4 and CL–215, Curtiss-Wright C–46, DeHavilland DHC–2, DHC–3, and DHC–4, General Dynamics (Convair) T–29, 240, 340, and 440 series, Gulfstream American (Grumman) G–12A, G164, F4U, S–2F, TBM, and W–2F series, Lockheed L–10, L–12, 049, 749, 1049, 1649 series, Martin 202 and 404 series, McDonnell Douglas B–26, DC–3, DC–4, DC–6, and DC–7 series, North American AT–6, B–25, P–51, SNJ–5, T–6 and T–28.

Compliance is required as indicated, unless already accomplished.

To prevent propeller blade failure due to corrosion and fatigue, accomplish the following:

(a) Inspect propeller blades within the next 90 days after July 1, 1982, or within 18 months since last inspection, whichever occurs later, for corrosion in the blade fillet and shank area, particularly under the teflon friction reduction strip and the resin corrosion barrier, in accordance with Hamilton Standard Aluminum Blade Overhaul Manual No. 130B, dated March 1, 1980, previously incorporated by reference on June 28, 1982, in AD 81–13–06. Thereafter, if corrosion is found reinspect at intervals not to exceed 18 months since the last inspection.

(b) For propellers with all installed blades having no corrosion at the last inspection, the 18 month reinspection interval may be increased as follows:

(1) Reinspect between 33 and 39 months since the last inspection. If corrosion is found to be beyond repairable limits return to the 18 month reinspection interval required by paragraph (a). If corrosion is found to be within repairable limits the reinspection interval cannot exceed a 36 month reinspection schedule.

(2) If no corrosion is found at the last 33 to 39 month reinspection in accordance with paragraph (b)(1), then thereafter reinspect at intervals not to exceed 60 months. If corrosion is found to be beyond repairable limits at any reinspection interval return to the 18 month reinspection interval required by paragraph (a). If corrosion is found to be within repairable limits the reinspection interval may remain on a schedule not to exceed 60 months.

(c) Prior to further flight, blades with corrosion in the fillet or shank area must be replaced with an airworthy blade or repaired in accordance with Hamilton Standard Aluminum Blade Overhaul Manual No. 130B, dated March 1, 1980.

(d) Disassembled propeller blades preserved in accordance with Hamilton Standard Aluminum Blade Overhaul Manual No. 130B, dated March 1, 1980, need not include storage time when computing the time since last inspection.

(e) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, the Manager, Boston Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, may adjust the compliance times specified in this AD or approve an equivalent means of compliance with this AD.

Note: Extensions to the compliance schedule previously granted to owners/operators are still applicable to this amendment. These extensions which are beyond a 39 month reinspection interval may be extended to 60 months as provided in paragraph (b)(2).

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the inspection required by this AD.

This amendment becomes effective September 15, 1989.

This amendment amends Amendment 39–4409 (47 FR 36217; August 19, 1982), AD 81–13–06 R1.

Issued in Burlington, Massachusetts, on July 11, 1989.

Arthur J. Pidgeon,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 89–17476 Filed 7–25–89; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Correction

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule; correction.

SUMMARY: A document was published in the **Federal Register** as T.D. 89–63 (54 FR 26956) on June 27, 1989, amending Part 101, Customs Regulations to establish a new port of entry known as the Virginia Inland Port (VIP) near Front Royal in the Norfolk, Virginia, Customs District of the Southeast Region. This document corrects an error that appears in that document relating to the authority citation for Part 101.

FOR FURTHER INFORMATION CONTACT: Russell Berger, Regulations and Disclosure Law Branch, (202) 566–8237.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** as T.D. 89–63 (54 FR 26956) on June 27, 1989, amended Part 101, Customs Regulations (19 CFR Part 101), relating to the Customs field organization. The document established a new port of entry known as the Virginia Inland Port (VIP) near Front Royal in the Norfolk, Virginia, Customs District, Southeast Region. The authority citation for Part 101 as set forth in the document inadvertently included reference to a Customs Reorganization Plan.

Correction

On page 26957 of the document, the authority citation for Part 101 should read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 2, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

July 19, 1989.

[FR Doc. 89-17401 Filed 7-25-89; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 85F-0188]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Acrylic Acid/2-Acrylamido-2-Methyl Propane Sulfonic Acid Copolymer

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of acrylic acid/2-acrylamido-2-methyl propane sulfonic acid copolymer. This action is in response to a petition filed by Calgon Corp.

DATES: Effective July 26, 1989; written objections and requests for a hearing by August 25, 1989. The Director of the Office of the Federal Register approved the incorporation by reference in accordance with 5 U.S.C. 552(a) of a certain publication in 21 CFR 173.310(c), effective July 26, 1989.

ADDRESSES: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 17, 1985 (50 FR 20623), FDA announced that a food additive petition (FAP 5A3857) had been filed by Calgon Corp., Calgon Center, Box 1346, Pittsburgh, PA 15230, proposing that Part 173 of the food additive regulations (21 CFR Part 173) be amended to provide for the safe use of acrylic acid/2-acrylamido-2-methyl propane sulfonic acid as a boiler water additive.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of this food additive is safe, and that 21 CFR 173.310(c) should be amended as set forth below.

In accordance with § 171.1(h) (21CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be aversely affected by this regulation may at any time on or before August 25, 1989 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR Part 173 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 173.310 is amended by alphabetically adding a new entry in the table in paragraph (c) under the headings "Substances" and "Limitations" to read as follows:

§ 173.310 Boiler water additives.

* * * * *

(c) * * *

Substances	Limitations
* * *	* *
Acrylic acid/2-acrylamido-2-methyl propane sulfonic acid copolymer having a minimum weight average molecular weight of 9,900 and a minimum number average molecular weight of 5,700 as determined by a method entitled "Determination of Weight Average and Number Average Molecular Weight of 60/40 AA/AMPS" (October 23, 1987), which is incorporated by reference in accordance with 5 U.S.C. 552(a). Copies may be obtained from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC.	Total not to exceed 20 parts per million (active) in boiler feedwater.
* * *	* *

* * * * *

Dated: July 18, 1989.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-17388 Filed 7-25-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 87F-0329]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sanitizing solutions composed of sodium hypochlorite, potassium permanganate, sodium lauryl sulfate, and trisodium phosphate with magnesium oxide and potassium bromide as optional ingredients. The sanitizing solution is to be used on food-processing equipment and utensils and on food-contact surfaces in public eating places. This action is in response to a petition filed by Diversey Wyandotte Corp.

DATES: Effective July 26, 1989; written objections and requests for a hearing by August 25, 1989.

ADDRESSES: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 15, 1987 (52 FR 47637), FDA announced that a food additive petition (FAP 7B4020) had been filed by Diversey Wyandotte Corp., 1532 Biddle Ave., Wyandotte, MI 48192, proposing that § 178.1010 *Sanitizing solutions* (21 CFR 178.1010) be amended to provide for the safe use of potassium permanganate, sodium lauryl sulfate, magnesium oxide, trisodium phosphate, and sodium hpochlorite, with potassium bromide as an optional ingredient, as components of a sanitizing solution to be used on food-contact sufaces.

I. Safety of Petitioned Use of the Additives

Sanitizing solutions are mixtures of chemicals. Each listed component in a sanitizing solution must have a functional effect. The subject sanitizing solution contains a double salt of sodium hypochlorite and trisodium phosphate. In addition, the solution contains sodium lauryl sulfate and potassium permanganate and may contain magnesium oxide or potassium bromide as optional ingredients. During review of this petition, the agency determined that magnesium oxide, which was originally listed as a required ingredient, was not necessary in the formulation and thus decided to include it as an optional ingredient. The functions of each component are described below.

A. Sodium Hypochlorite

Sodium hypochlorite functions as an antimicrobial agent in the subject sanitizing solution and is used in a regulated sanitizing solution listed in § 178.1010(b)(1). On the basis of the data submitted in support of this regulated use and the data contained in the food additive petition submitted in support of this sanitizing solution, FDA finds that the use of sodium hypochlorite in the subject sanitizing solution is safe, and that this substance will have its intended functional effect.

B. Trisodium Phosphate

Trisodium phosphate functions as a detergent in the subject sanitizing solution. It also stabilizes sodium hypochlorite in crystalline form. Trisodium phosphate is regulated in 21 CFR 182.1778 as generally recognized as safe (GRAS) for direct use in food. On the basis of the data contained in the food additive petition submitted in support of this sanitizing solution and other available data, FDA finds that the use of trisodium phosphate in the subject sanitizing solution is safe, and that this substance will have its intended functional effect.

C. Sodium Lauryl Sulfate

Sodium lauryl sulfate functions as a surface-active agent in the subject sanitizing solution to promote draining of the sanitizer. This ingredient is regulated in two paragraphs of the sanitizing solution regulations, § 178.1010(b) (3) and (10). On the basis of the data submitted in support of these regulated uses and of the data contained in the food additive petition submitted in support of this sanitizing solution, FDA finds that the use of sodium lauryl sulfate in the subject sanitizing solution is safe, and that this substance will have its intended functional effect.

D. Potassium Permanganate

Potassium permanganate functions as a colorant in the presence of sodium hypochlorite and is recognized as having broad antimicrobial activity. Potassium permanganate is not currently regulated. On the basis of the data contained in the food additive petition submitted in support of this sanitizing solution, FDA finds that the use of potassium permanganate in the subject sanitizing solution is safe, and that this substance will have its intended functional effects.

E. Magnesium Oxide

Magnesium oxide functions as an anticaking agent for the sanitizing ingredients of the subject sanitizing solution during storage and transport. Magnesium oxide is listed as GRAS for use as an anticaking agent in 21 CFR 184.1431 for direct use in food. On the basis of the data contained in the food additive petition submitted in support of this sanitizing solution and other available data, FDA finds that the optional use of magnesium oxide in the subject sanitizing solution is safe, and that this substance will have its intended functional effect when used at appropriate levels.

F. Potassium Bromide

Potassium bromide functions as an antimicrobial agent in the subject sanitizing solution. It is used in a regulated sanitizing solution listed in § 178.1010(b)(1). On the basis of the data submitted in support of this regulated use and the data contained in the food additive petition submitted in support of this sanitizing solution, FDA finds that the optional use of potassium bromide in the subject sanitizing solution is safe, and that this substance will have its intended functional effect.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe and effective, and that the regulation in § 178.1010 should be amended by adding paragraphs (b)(37) and (c)(32) as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

II. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not

required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

III. Filing of Objections

Any person who will be adversely affected by this regulation may at any time on or before August 25, 1989 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows.

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.1010 is amended by adding new paragraphs (b)(37) and (c)(32) to read as follows:

§ 178.1010 Sanitizing solutions.

* * * * *

(b) * * *

(37) The sanitizing solution contains sodium hypochlorite (CAS Reg. No. 7681–52–9), trisodium phosphate (CAS Reg. No. 7601–54–9), sodium lauryl sulfate (CAS Reg. No. 151–21–3), and potassium permanganate (CAS Reg. No. 7722–64–7). Magnesium oxide (CAS Reg. No. 1309–48–4) and potassium bromide (CAS Reg. No. 7758–02–3) may be added as optional ingredients to this sanitizing solution. In addition to use on food-processing equipment and utensils, this solution may be used on food-contact surfaces in public eating places.

* * * * *

(c) * * *

(32)(i) The solution identified in paragraph (b)(37) of this section without potassium bromide shall provide, when ready to use, at least 100 parts per million and not more than 200 parts per million of available halogen determined as available chlorine; at least 2,958 parts per million and not more than 5,916 parts per million of trisodium phosphate; at least 1 part per million and not more than 3 parts per million of sodium lauryl sulfate; and at least 0.3 part per million and not more than 0.7 part per million on potassium permanganate.

(ii) The solution identified in paragraph (b)(37) of this section with potassium bromide shall provide, when ready to use, at least 25 parts per million and not more than 200 parts per million of available halogen determined as available chlorine; at least 15 parts per million and not more than 46 parts per million of potassium bromide; at least 690 parts per million and not more than 2,072 parts per million of trisodium phosphate; at least 0.3 part per million and not more than 1 part per million of sodium lauryl sulfate; and at least 0.1 part per million and not more than 0.3 part per million of potassium permanganate.

(iii) Magnesium oxide when used in paragraph (c)(32) (i) or (ii) of this section shall not be used in excess of the minimum amount required to accomplish its intended technical effect.

* * * * *

Dated: July 18, 1989.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89–17389 Filed 7–25–89; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 290

[DCAA 5410.8]

Freedom of Information Act Program; Defense Contract Audit Agency

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule revises the Defense Contract Audit Agency Freedom of Information Act Program which implements the Freedom of Information Act of 1974, as amended (5 U.S.C. 552) within the Agency. This document revises 32 CFR Part 290 (42 FR 40433) published on August 10, 1977, and its amendments (51 FR 3045) published on January 23, 1986. This rule is published pursuant to the Freedom of Information Reform Act of 1986, sections 1801–1804 (Pub. L. 99–570); and section 954 of the National Defense Authorization Act of Fiscal Year 1987 (Pub. L. 99–661).

EFFECTIVE DATE: July 26, 1989.

ADDRESSES: Headquarters, Defense Contract Audit Agency, ATTN: CMR, Cameron Station, Alexandria, Virginia 22304–6178.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Henshall, (202) 274–4400.

SUPPLEMENTARY INFORMATION: This rule implements the provisions of DoD 5400.7–R, "DoD Freedom of Information Act Program," as published (52 FR 25976) on July 10, 1987, 32 CFR Part 286, "DoD Freedom of Information Act Program."

List of Subjects in 32 CFR Part 290

Freedom of Information.

Accordingly Chapter I of Title 32 of the Code of Federal Regulations is amended by revising Part 290 to read as follows:

PART 290—DEFENSE CONTRACT AUDIT AGENCY FREEDOM OF INFORMATION ACT PROGRAM

Sec.

Appendix A to Part 290—DCAA Headquarters and Regional FOIA Processing Procedure Charts

Appendix B to Part 290—DCAA Form 5410-2(R)

Appendix C to Part 290—DCAA Organization and Mission

Authority: 5 U.S.C. 552, as amended by Pub. L. 99-570.

§ 290.1 Purpose.

This part is issued to assign responsibilities and establish policies and procedures for a uniform DCAA Freedom of Information Act (FOIA) Program pursuant to the provisions of 5 U.S.C. 552, as amended, and as supplemented by DoD Directive 5400.7 [1] (32 CFR Part 285) and DoD 5400.7-R [2] (32 CFR Part 286).

§ 290.2 Cancellation.

DCAA Instruction 5410.8, DCAA Freedom of Information Act (FOIA) Program, dated 27 August 1981 and DCAA Regulation 5410.5, Availability to the Public of Defense Contract Audit Agency (DCAA) Information, dated 14 April 1987 are superseded.

§ 290.3 Applicability and scope.

This rule shall apply to all DCAA organizational elements, and is to govern written responses by DCAA officials for requests from members of the public for permission to examine, or to be provided with copies of DCAA records.

§ 290.4 Policy.

(a) It is the policy of DCAA to promote public trust by making the maximum amount of information available to the public, upon request, pertaining to the operation and activities of the Agency.

(b) Allow a requester to obtain records from the Agency that are available through other public information services without invoking the FOIA.

(c) Make available, under the procedures established by 32 CFR Parts 285 and 286, those records that are requested by a member of the general public who cites the FOIA.

(d) Answer promptly all other requests for information and records under established procedures and practices.

(e) Release records to the public unless those records are exempt from disclosure as prescribed by 5 U.S.C. 552, as amended and 32 CFR Part 285 and implemented by 32 CFR Part 286.

(f) Process requests by individuals for access to records about themselves under the "Privacy Act" procedures as implemented by DoD Directive 5400.11 [3] (32 CFR Part 286a) or procedures outlined in 5 U.S.C. 552, as amended, and 32 CFR Part 286.

(g) Refer incoming requests for audit reports to the appropriate activity for release determination. The requester shall then be notified in writing of the referral.

(h) Coordinate incoming requests for non-DCAA documents with the originator of the document to determine if the originator will make the release determination. If a referral occurs the requester shall be notified in writing of the referral.

§ 290.5 Definitions.

The terms used in this rule, with the exception of the following, are defined in 32 CFR Part 286.

(a) *Appellate Authority.* The Assistant Director, Resources, or his designee.

(b) *Initial Denial Authorities (IDAs).* The regional directors, and the Records Administrator, have been delegated the authority by the Director, DCAA, to make initial determinations as to the releasibility of DCAA records to the public, including Defense contractors. This authority may not be redelegated. Requests for records shall be processed as outlined in this rule.

§ 290.6 Responsibilities.

(a) *Headquarters. (1) The Assistant Director, Resources* is responsible for:

(i) The overall Agency-wide administration of the DCAA FOIA Program, through the Information Resources Management Branch (CMR), Records Administrator, to ensure compliance with the policies and procedures that govern the program.

(ii) Acting as the designee for the Director, DCAA, serving as the sole appellate authority for appeals to decisions of respective IDAs.

(iii) Advising the Assistant Secretary of Defense (Public Affairs) (ASD(PA)) of cases of public interest, particularly those on appeal, when the issues raised are unusual or precedent setting, matters of disagreement among DoD components, are of concern to agencies outside the Department of Defense, or may otherwise require special attention or guidance.

(iv) Advising the ASD(PA) and the Exective Officer, DCAA, concurrent with the denial of a request or an appeal, when circumstances suggest a news media interest.

(v) Conferring with the General Counsel; the Assistant Director, Operations; and the Assistant Director, Policy and Plans, on the desirability of reconsidering a final decision to deny a record if that decision becomes a matter of special concern because it involves either an issue of public concern or DoD-wide consequences.

(vi) Accomplishing program overview, in cooperation with the General Counsel, to ensure coordinated guidance to components, and to provide the means of assessing the overall conduct of the Agency's FOIA Program.

(vii) Directing required studies, and surveys to facilitate the implementation of Title 5, U.S.C. section 552, as amended, and to evaluate the FOIA program in DCAA.

(viii) Responding to corrective action recommended by the Special Counsel of the Merit System Protection Board for arbitrary or capricious withholding of records by designated employees of the Agency.

(ix) Submitting the Agency's annual FOIA report as prescribed by 32 CFR Part 286.

(2) *The Records Administrator,* (CMR) is responsible for:

(i) Making the initial determination for Headquarters, DCAA, on the release of Agency records to members of the public.

(ii) Coordinating with the Agency's General Counsel on proposed denials of records.

(iii) Advising the Assistant Director, Resources; General Counsel; and/or the Executive Officer; as appropriate, when cases are of particular interest; are matters of disagreement among DoD Components or DCAA organizational elements; are of concern to agencies outside the Department of Defense; have news media interest; or require special attention or guidance.

(iv) Establishing and maintaining a control system for assigning FOIA case numbers to FOIA requests received by Headquarters and regional offices. This system shall be designed to ensure compliance with the FOIA, and will not only provide controls to maintain responsiveness in handling requests but will also employ methods to ensure accurate cost accounting reporting for the assessment of fees.

(v) Maintaining a record of FOIA requests received by Headquarters. This record is to contain the requester's identification, the date of the request, type of information requested, and type of information furnished. This record will be maintained and disposed of in

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1053, 5801 Tabor Avenue, Philadelphia, PA 19120.

[2] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[3] See footnote 1 to § 290.1.

accordance with DCAA records maintenance and disposition regulations and schedules.

(vi) Preparing and submitting the Agency's annual FOIA Report prescribed by 32 CFR Parts 285 and 286, as well as preparing and submitting, as required, any additional information requirements.

(vii) Preparing and submitting the bi-monthly FOIA status report.

(viii) Issuing DCAA FOIA regulations and any other discretionary instructions or guidance required to ensure timely and uniform implementation of the FOIA program.

(ix) Providing Agency-wide policy guidance pertaining to the overall conduct of the Agency's FOIA program.

(x) Publishing in the **Federal Register** any instructions necessary for the administration of the FOIA program. Information specified in paragraph (a)(1), of 5 U.S.C. 552, as amended, shall be published in accordance with DoD Directive 5400.9.[4]

(xi) Developing and conducting training on the provisions of this part, 32 CFR Parts 285 and 286, and 5 U.S.C. 552, as amended, for those individuals who implement the FOIA.

(xii) Making available for public inspection and copying in an appropriate facility or facilities, in accordance with rules published in the **Federal Register**, the records specified in paragraph (a)(2) of 5 U.S.C. 552, unless such records are published and copies are offered for sale. Maintain and make available for public inspection and copying current indices of these records.

(3) *The Executive Officer* shall serve as the coordinator for the release of information to the news media.

(4) *The General Counsel* is responsible for:

(i) Ensuring uniformity is maintained in the legal position, and the interpretation of 5 U.S.C. 552, as amended, and 32 CFR Parts 285 and 286, as well as this rule.

(ii) Consulting with the General Counsel, Department of Defense, on final denials that are inconsistent with decisions of other components, involve issues not previously resolved, or raise new or significant legal issues of potential significance to other Government agencies.

(iii) Providing advice and assistance to the Assistant Director, Resources; Regional Directors; and the Regional FOIA Coordinators, through the Records Administrator, CMR, as required, in the discharge of their responsibilities.

(iv) Coordinating FOIA litigation with the Department of Justice.

(v) Coordinating on Headquarters denials of initial requests.

(5) *Heads of Principal Staff Elements* are responsible for:

(i) Reviewing all regulations or other policy and guidance issuances for which they are the proponent to ensure consistency with the provisions of this rule.

(ii) Ensuring that the provisions of this rule are followed in processing requests for records.

(iii) Forwarding to the Records Administrator, CMR, any FOIA request received directly from a member of the public, so that the request may be administratively controlled.

(iv) Ensuring the prompt review of all FOIA requests received from CMR, and when required, coordinating those requests with other organizational elements.

(v) Providing recommendations to CMR regarding releasability of DCAA records to members of the public, along with the releasable documents and the completed DD Form 2086, "Record of Freedom of Information (FOI) Processing Cost," for every FOIA request to which they respond.

(vi) Providing the appropriate documents, along with a written justification to CMR for the denial, in whole or in part, of a request for records. Those portions to be excised should be highlighted in colored pen or pencil, and the specific exemption or exemptions which provides the basis for denying the record(s) should be identified.

(b) *Regional Directors* are responsible for:

(1) Making the initial determination pertaining to the releasability of DCAA records to members of the public. This authority cannot be delegated.

(2) Designating an individual to serve as the Regional FOIA Coordinator.

(3) Delegating signature authority for FOIA correspondence which is considered only to be routine in nature, e.g., referrals and the release of information.

(4) Issuing regional instructions that are consistent with the policies and procedures defined in this rule.

(5) Directing, when required, the necessary surveys or studies to further facilitate the implementation of activities related to the DCAA FOIA Program.

(6) Providing, in coordination with the Records Administrator, CMR, the appropriate training on the provisions and requirements of this rule for those individuals who are responsible for implementing the FOIA program.

(c) *Regional FOIA Coordinators* are responsible for:

(1) Establishing and maintaining a control system to ensure proper accountability and processing of FOIA requests.

(2) Contacting the Records Administrator, CMR for a FOIA case number upon receipt of a FOIA request.

(3) Providing, by telecopier to the Records Administrator, CMR, a copy of the request containing the FOIA case number, date received, and the suspense date.

(4) Communicating with the Records Administrator, CMR, on those FOIA requests which are sensitive in nature, to maintain uniformity and consistency in the Agency's FOIA program.

(5) Ensuring all interim or final responses to requesters are made within the prescribed timeframe of 10 workdays.

(6) Notifying the requester, within the 10 day suspense period, that the request is being referred to a contracting activity.

(7) Submitting, upon completion of the request, DCAA Form 5410.2, "Statistical Report of FOIA Request," (Appendix B), accompanied by:

(i) Copies of all correspondence relating to the request, and

(ii) DD Form 2086 properly annotated to show the correct processing costs.

(8) Conducting, when necessary, training on the FOIA program to the FAOs.

(d) *Managers, Field Audit Offices (FAOs)* are responsible for:

(1) Overall management and administration of the FOIA program within organizations under their congnizance.

(2) Ensuring that the appropriate FOIA Coordinator promptly receives all incoming FOIA requests.

§ 290.7 Procedures.

(a) The following are authorities and procedures for processing material in accordance with the FOIA. DCAA personnel shall comply with the provisions of the FOIA, 5 U.S.C. 552, as amended, and this rule.

(b) *Public inspection and copying.* (1) 5 U.S.C., Section 552(a)(2) requires agencies to make available for public inspection and copying those materials discussed in 5 U.S.C. 552, 32 CFR Part 286, and this rule.

(2) DCAA documents pertaining to contract audit are disseminated to staff under the Quarterly Index of DCAA Numbered Publications and Memorandums (DCAA Instruction 5025.2).

(3) The numbered publications discussed in the previous paragraph are frequently amended or supplemented by

[4] See footnote 1 to § 290.1.

interim numbered memorandums pending formal revision to the numbered publication. Additionally, numbered memorandums are issued as auxiliary illustrations and managerial reminders. Such staff memorandums are indexed in the Quarterly Index of DCAA Numbered Publications and Memorandums. Memorandums issued by Headquarters are referred to as Memorandum for Regional Directors (MRDs).

(4) The DCAA Quarterly Index of Numbered Publications and Memorandums is not published in the **Federal Register** because of the volume, and the limited applicability to the general public. However, it is available upon request at no cost to the general public.

(5) DCAA Headquarters and each of the six regional offices will publish a quarterly index of the documents referenced previously. Documents that are generally available to the public will be maintained in the reading rooms of the Headquarters, regional offices, FAOs, and the Defense Contract Audit Institute.

(6) Documents identified in the DCAA Headquarters or regional quarterly indices are available to the public from DCAA or the Superintendent of Documents. However, in some instances, it may be necessary to deny all or portions of a document if disclosure of information in the document would constitute a clearly unwarranted invasion of personal privacy. In such cases, the requester will be advised fully in writing of the rationale for invoking the exemption.

(c) *Requests for the examination or copies of records.* (1) Members of the public may make written requests for copies of DCAA records or for permission to examine such records during the normal business hours. Such requests must be in writing and expressly indicate that it is a request under the Freedom of Information Act, 5 U.S.C., section 552, or this rule. These requests should be submitted directly to the appropriate DCAA component listed in Appendix C of this rule. If the appropriate component is either unknown or cannot be ascertained, and the record is likely to be in the possession of DCAA, the request may be submitted to Headquarters, DCAA, ATTN: CMR, Cameron Station, Alexandria, Virginia 22304–6178.

(2) When submitting requests, requesters should:

(i) Identify each record sought with sufficient detail to permit easy access. Information as to where the record originated, subject, date, number, or any other identifying particulars should be provided whenever possible. DCAA elements receiving requests which do not reasonably describe the record requested will advise the requester accordingly. Generally, a record is not reasonably described unless the requester provides information permitting an organized, nonrandom search of DCAA files and/or information systems. In providing descriptions based on events, the requester must provide information which permits DCAA components to infer the specific record sought.

(ii) Identify all other Federal agencies subject to the provisions of the Freedom of Information Act to which the request has been sent. This will reduce both processing and coordination time between agencies, as well as redundant referrals.

(iii) Provide a statement of their willingness to pay assessable charges cited under the schedule of fees in 32 CFR Part 286. The statement must include a specific monetary amount if the assessable fees are likely to exceed the minimum amount specified by 32 CFR Part 286 or a specific justification for any waiver or reduction of fees sought based on public interest in release or disclosure. Requesters should also substantiate any claim for the assessment of fees under a specific fee category as explained in 32 CFR Part 286. DCAA components will notify requesters of deficiencies in fee declarations, and provide them the opportunity to amend initial declarations. Determinations on the adequacy of requester fee declarations are not subject to appeal unless:

(A) The DCAA component has denied a specific request for the assessment of fees under one of the categories established in 32 CFR Part 286 or

(B) Has denied a request for the waiver or reduction of fees in the public interest.

(3) When a DCAA component has no records responsive to a request, the requester will be notified promptly. In cases where the request has been misdirected and the component is aware of the appropriate FOIA respondent, the component shall refer the request to the appropriate DCAA component or other agency through FOIA channels, and notify the requester of the referral. The 10 working day period allowed for responding to requests will not begin until the DCAA component having the responsive records receives a request complying with procedural requirements of this rule, including statements on the payment of fees.

(4) The provisions of the FOIA are intended for parties with private interests. Officials seeking documents or information on behalf of foreign governments, other Federal agencies, and state or local agencies should be encouraged to employ official channels. The release of records to individuals under the FOIA is a public release of information. DCAA components will consider FOIA requests from such officials as made in a private, rather than official capacity, and will make disclosure and fee determinations accordingly.

(d) *Referrals.* (1) Records originating in or based on information obtained from other Federal agencies subject to the FOIA may be referred to that agency. In processing FOIA requests for such records, DCAA components, after coordinating with the originating agency, will refer the request, along with a copy of the responsive records in its possession, to that agency for direct response. The requester is to be notified of the referral.

(2) The Director, DCAA, has delegated to the regional directors and Records Administrator, CMR the authority to make initial determinations as to the release of DCAA records to the public, including Defense contractors. This authority may not be redelegated. Therefore, requests for records should be processed as follows:

(i) *Headquarters Offices, Including DCAI, Technical Services Center, Field Detachment, and PLA/JLA,* shall promptly refer all requests for DCAA records to the Records Administrator, Headquarters, DCAA, ATTN: OMR, Cameron Station, Alexandria, VA 22304–6178.

(ii) *Field Audit Office (FAOs)* shall promptly refer all requests for DCAA records to the cognizant regional director.

(3) *Referral of audit reports.* Audit reports prepared by DCAA are prepared for the use of the contracting officers, and their release should be at the discretion of the contracting activity. Therefore, any FOIA request for audit reports should be referred to the cognizant contracting activity and the requester notified of the referral. Initial Denial Authorities shall process requests for audit reports as follows:

(i) *Defense Logistics Agency (DLA).* If the cognizant contracting officer is an official of DLA, the request will be referred to the appropriate Defense Contract Administration Services Region or buying center. Since DLA contracting officers do not have initial denial authority, this avoids a second referral action and unnecessary delay in responding to the request. (Refer to 32 CFR Part 286, Appendix B, for a listing of DoD Component addresses).

(ii) *United States Air Force (USAF).* If the cognizant contracting officer is an

USAF official, the request will be referred to the appropriate USAF Command. Since USAF contracting officers do not have initial denial authority, this avoids a second referral action and unnecessary delay in responding to the request. (Refer to 32 CFR Part 286, Appendix B for a listing of DoD Component addresses).

(iii) *Army Materiel Command.* If the cognizant contracting officer is a Army Materiel Command official, the request will be referred to: Freedom of Information Officer, Headquarters, Army Materiel Command, 5001 Eisenhower Avenue, Alexandria, VA 22333–0001.

(iv) *Others.* All other requests for audit reports shall be referred to the address of the cognizant contracting officer. Referral letters should provide the name and address of the contracting officer, and as much information as possible to assist in preparing a timely reply to the requester.

(4) *Referral of work papers.* When a request seeks workpapers, the cognizant contracting officer must furnish a notice of disposition to the appropriate activity pertaining to the releasability of the audit report. The notice of disposition will then be used to determine releasability of the workpapers.

(5) All other requests should be directed to the appropriate Regional Director, if known. When the location of the record is not known, the request should be directed to the Records Administrator, CMR.

(e) *Time limits.* DCAA components are to respond promptly to requesters complying with the procedural requirements outlined in this rule.

(1) Upon receipt of a properly submitted FOIA request, DCAA components should contact the Records Administrator, CMR for a FOIA case number. IDAs should: (i) Locate and assemble responsive records; (ii) Determine releasability under the provisions of this rule; (iii) Determine the appropriate fees to be charged, and (iv) Advise the requester accordingly. Initial determinations on either the release or denial of records, and notice to requesters, must be provided within 10 working days following receipt of the request by the cognizant component.

(2) In certain cases, IDAs may need to exercise an extension to the normal 10 working day period cited above. IDAs are to notify the requester, within the initial 10 working day period, of the extension, the circumstances necessitating it, and the anticipated date of a determination. Approved extensions are not to exceed 10 working days, and all extensions should be indicated on DCAA Form 5410, sections 10 and 11. Circumstances where such extensions may be approved include:

(i) The record(s) sought are geographically located at places other than the component processing the request.

(ii) The request requires the collection and review of a substantial nmber of records.

(iii) The disclosure determination requires consultation with another DCAA component or agency with a substantial interest.

(3) As an alternative to the previously mentioned, DCAA components may seek informal agreements with requesters for extensions in unusual circumstances when time limits become an issue in the Component's response to the request.

(4) Misdirected requests should be referred within 10 working days to the proper agency or DCAA component through FOIA channels, and the requester notified of the referral. The 10 working day period allowed for responding to requests will not begin until the DCAA component having the responsive records receives the request.

(f) *Initial disclosure determinations.* (1) Initial determinations to make records available may only be made by those IDAs designated in this rule. When a decision is made to release records in response to a FOIA request, DCAA components will promptly make the records available to the requester. When the request is for the examination of releasable records, DCAA components will advise the requester when and where he or she may appear. Examinations will be held during normal business hours. If a record is not provided in response to a FOIA request, the IDA will advise the requester, in writing, of the rationale for not providing the record.

(2) IDAs should consult the Executive Officer, prior to releasing records on matters considered newsworthy or when releasing records to media representatives. Copies of all released material of this nature should be submitted to the Executive Officer.

(3) The following reasons are provided for not releasing a record in response to a FOIA request:

(i) The information or item requested is not a record within the meaning of the FOIA in accordance with 5 U.S.C. 552, as amended, 32 CFR Parts 285 and 286, and this rule.

(ii) The record has not been sufficiently described to enable DCAA to locate it by conducting a reasonable search.

(iii) The requester has failed to comply with procedural requirements, including agreements to pay assessable

fees, imposed by 5 U.S.C. 552, as amended, 32 CFR Part 286, and this rule.

(iv) DCAA determines through knowledge of its files and reasonable search efforts that it neither controls nor possesses the requested record or that the requested record does not exist.

(v) The request is withdrawn by the requester.

(vi) The request is transferred to another DCAA component or agency.

(g) *Denials.* (1) A record in the possession and control of DCAA may be withheld only when the record falls within one or more of the nine categories of records exempt from mandatory disclosure under the FOIA, and the use of discretionary authority to release the record is determined to be unwarranted (see 32 CFR Part 286).

(2) Although exempt portions of records may be denied, nonexempt portions must be released to the requester when the meaning of these portions is not distorted by the deletion of denied portions, and when it can reasonably be assumed that the excised information could not be reconstructed. When a record is denied in whole, based on distortion or reconstruction potential, the IDA will prepare a response advising the requester of the determination, and the response will specifically state that it is not possible to reasonably segregate meaningful portions for release.

(3) When a request for a record is denied in whole or in part, the IDA will inform the requester in writing of the specific exemption(s) on which the denial is based and explain the determination in sufficient detail to permit the requester to make a decision concerning appeal. The determination will also inform the requester of his or her appeal rights. All appeals should be made within 60 calendar days from the date of the initial denial, contain the reasons for the requester's disagreement with the determination, and be addressed to the Assistant Director, Resources, Headquarters, DCAA, Cameron Station, Alexandria, VA 22304–6178.

(4) Records or portions of records which have been previously released become part of the public domain, and cannot be denied thereafter.

(h) *Administrative appeals of denials.* (1) If the IDA declines to provide a record because he or she considers it exempt, that decision may be appealed by the requester, in writing, to the Assistant Director, Resources, DCAA. The appeal should be accompanied by a copy of the letter denying the initial request. Such appeals should contain the basis for disagreement with the initial refusal. Appeal procedures also apply to the disapproval of a request for waiver or reduction of fees. A "no record" finding may not be appealed, although the requester may ask the Agency to search other files or the requester may provide more detailed identification to facilitate another search. Records which are denied should be retained during the time permitted for appeal.

(2) IDAs shall advise the requester that an appeal should be filed so that it reaches the designated appellate authority no later than 60 calendar days after the date of the initial denial letter. At the conclusion of this period, except for good cause shown as to why the appeal was not timely, the case may be considered closed; however, such closure does not preclude the requester from filing litigation for denial of his appeal. If the requester has been provided a series of determinations for a single request, the time for appeal will begin on the date of the last determination of the series.

(3) Final determinations normally shall be made within 20 working days of receipt of an appropriately submitted appeal.

(i) *Delay in responding to an appeal.* (1) When additional time is required to respond to the appeal for the reasons outlined in paragraph 290.7(e)(2), the final determination may be delayed for the number of working days (not to exceed 10 days) that were not utilized as additional time for responding to the initial request. Requesters shall be advised that, if the delay exceeds the statutory extension provision or is for reasons other than the unusual circumstances identified in paragraph 290.7(e)(2), they may consider their administrative remedies exhausted. They may, however, without prejudicing their right of judicial remedy, await a substantive response. DCAA shall continue to process the case expeditiously, whether or not the requester seeks a court order for release of the records, but a copy of any response provided subsequent to filing a complaint shall be forwarded to the Department of Justice.

(2) When the Assistant Director, Resources, DCAA, makes a determination to release all or a portion of the records on appeal, the records shall be made available promptly to the requester after compliance with procedural requirements, such as payment of fees. The final denial of a request will be made in writing, explain the exemption(s) invoked, advise that the material being denied does not contain meaningful portions that are reasonably segregable, and also advise

the requester of the right of judicial review.

(j) *Judicial action.* A requester will be deemed to have exhausted his administrative remedy after he has been denied the requested record by the Assistant Director, Resources, or when the Agency fails to respond to his request within the time limits prescribed by 32 CFR Part 286 and this rule. The requester may then seek an order from a U.S. District Court in:

(1) The district in which he resides or has his principal place of business;

(2) The district in which the record is situated; or

(3) In the U.S. District Court for the District of Columbia, enjoining the Agency from withholding the record and ordering its production.

290.8 Fees

(a) Fees shall be determined in accordance with the Department of Defense fee schedule (32 CFR Part 286, Subpart F). Fees reflect direct costs for search, review (in the case of commercial requesters), and duplication of documents, collection of which is permitted by the FOIA. Fees are subject to limitations on the nature of assessable fees based on the category of the requester established in 32 CFR Part 286; statutory and automatic waivers based on the category determination and cost of routine collection; and either the waiver or reduction of fees when disclosure serves the public interest.

(b) Fees will not be charged when direct costs for a FOIA request are less than the automatic fee waiver threshold specified in 32 CFR Part 286, regardless of category.

(c) *Fee assessment.* In order to be as responsive as possible to FOIA requests, DCAA components should adhere to the following when assessing fees;

(1) Evaluate each request to determine the requester category and adequacy of the fee declaration. An adequate declaration requires a willingness by the requester to pay fees in an amount equal to, or greater than, the assessable charges for the request.

(2) Provide requesters an opportunity to amend inadequate fee declarations and provide estimates of prospective charges when required. When a requester fails to provide an adequate declaration within 30 days after notification of a deficiency, the request for information will be considered withdrawn.

(3) A requester's claims for assessment of fees under a specific category will be carefully considered. The IDA may require a requester to substantiate a claim for assessment under a claimed category. In the absence of requester claims, the IDA will determine the category into which a requester falls, basing its determination on all available information.

(4) When a DCAA component disagrees with a requester claim for fee assessment under a specific category, the IDA will provide the requester with written determination indicating the following:

(i) The requester should furnish additional justification to warrant the category claimed;

(ii) A search for responsive records will not be initiated until agreement has been attained relative to the category of the requester;

(iii) If further category information has not been received within a reasonable period of time, the component will render a final category determination; and

(iv) The determination may be appealed to the Assistant Director, Resources, within 60 calendar days of the date of the determination.

(d) Components may not require advance payment of fees 32 CFR Part 286. However, when a DCAA component determines that allowable charges are likely to exceed the ($250) amount specified in 32 CFR Part 286, the component may require a provisional payment in an amount up to the full estimated charges. Provisional payments may not be required for requests with estimated fees of the amount specified in 32 CFR Part 286 or less.

(e) Where a requester has previously failed to pay a fee charged within 30 calendar days from the date of billing, DCAA components may require the requester to pay the full amount due, plus any applicable interest or demonstrate satisfaction of the debt, and to make an advance payment of the full amount of estimated fees, before processing begins on a new or pending request.

(f) The administrative time limits for responding to a request will begin only after the component has received an adequate declaration from the requester stating a willingness to pay fees, and satisfaction that all outstanding debts have been paid.

(g) DCAA components can bill requesters in accordance with 32 CFR Part 286 for services provided in responding to a request. Payment of fees may be made by personal check, bank draft drawn on a U.S. bank, or by U.S. Postal money order. All payments of this type are to be made payable to the U.S. Treasurer.

(h) *Aggregating requests.* Occasionally, a requester may file multiple requests at the same time, each

seeking portions of a document or documents, solely to avoid payments of fees. When a component reasonably believes that a requester is attempting to do so, the component may aggregate such requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period in which the requests have occurred. In no case may components aggregate multiple requests on unrelated subjects from one requester.

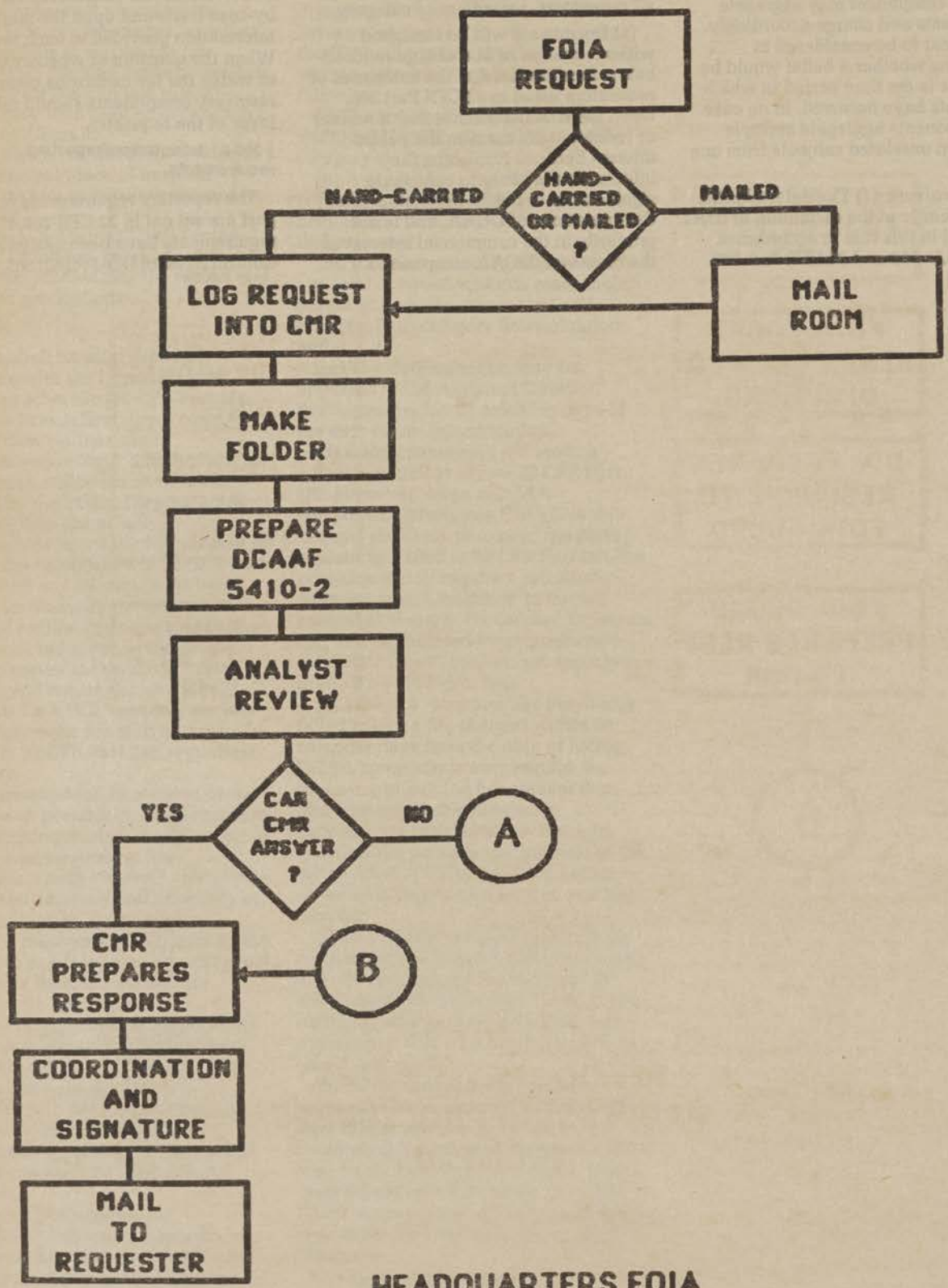
(i) *Fee waivers.* (1) The determination to waive fees is at the discretion of IDAs designated in this rule in accordance with 5 U.S.C. 552 and 32 CFR Part 286. When direct costs for a FOIA request total the automatic fee waiver threshold specified in 32 CFR Part 286, or is less, fees shall be waived automatically for all requesters, regardless of category.

(2) Documents will be furnished without charge, or at a charge reduced below fees assessed to the categories of requesters listed in 32 CFR Part 286, when the IDA determines that a waiver or reduction of fees is in the public interest because furnishing the information is likely to contribute significantly to public understanding of the operations of DCAA, and is not primarily in the commercial interest of the requester. DCAA components should refer to 32 CFR Part 286 for factors to consider in applying fee waivers due to public interest. Each fee decision must be considered on a case-by-case basis and upon the merits of the information provided in each request. When the question of whether to charge or waive the fee cannot be clearly resolved, components should rule in favor of the requester.

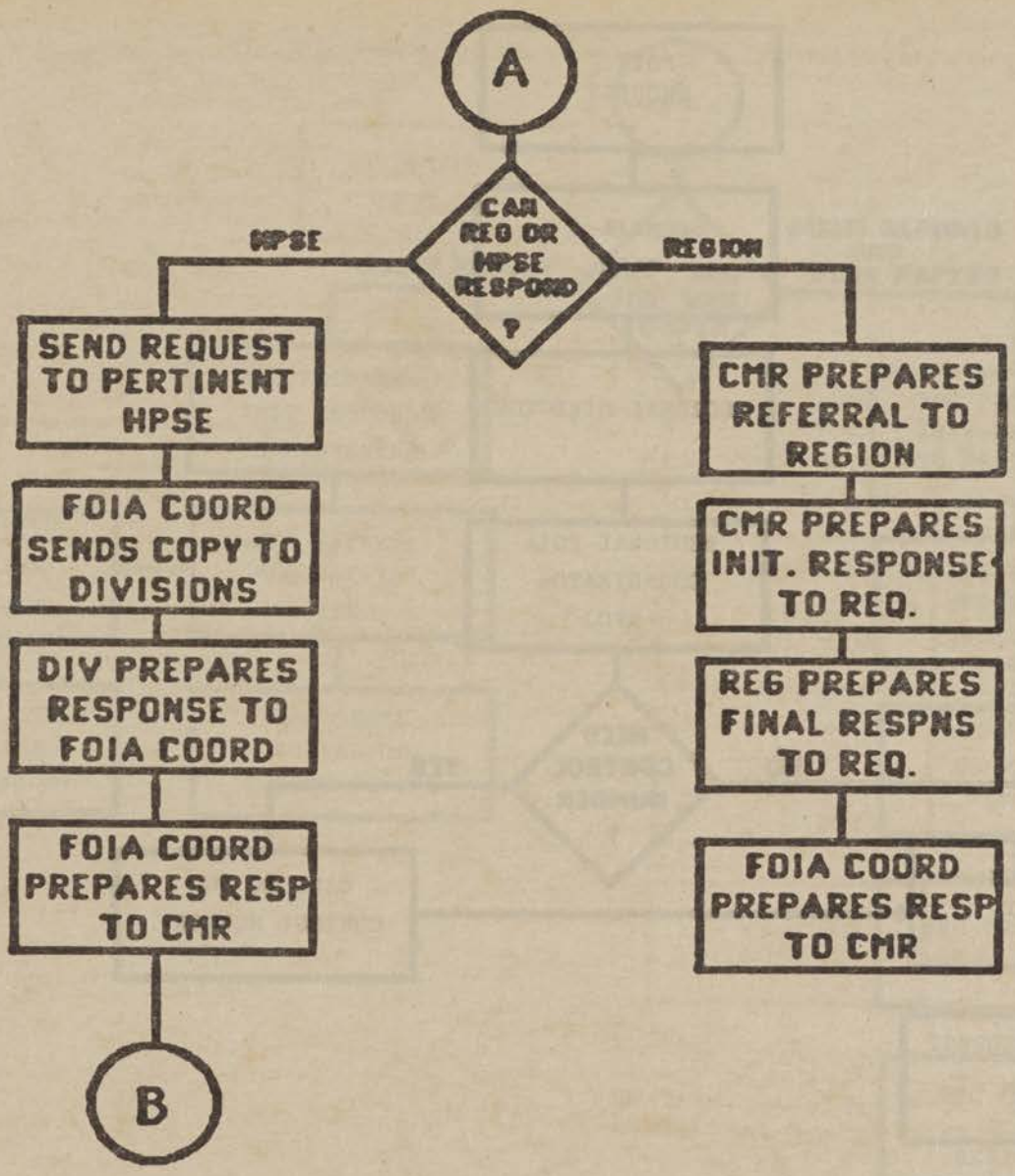
§ 290.9 Information/reporting requirements.

The reporting requirements for this part are set out in 32 CFR 286.41. Those requirements have been assigned Report Control Symbol DD–PA(A)1365.

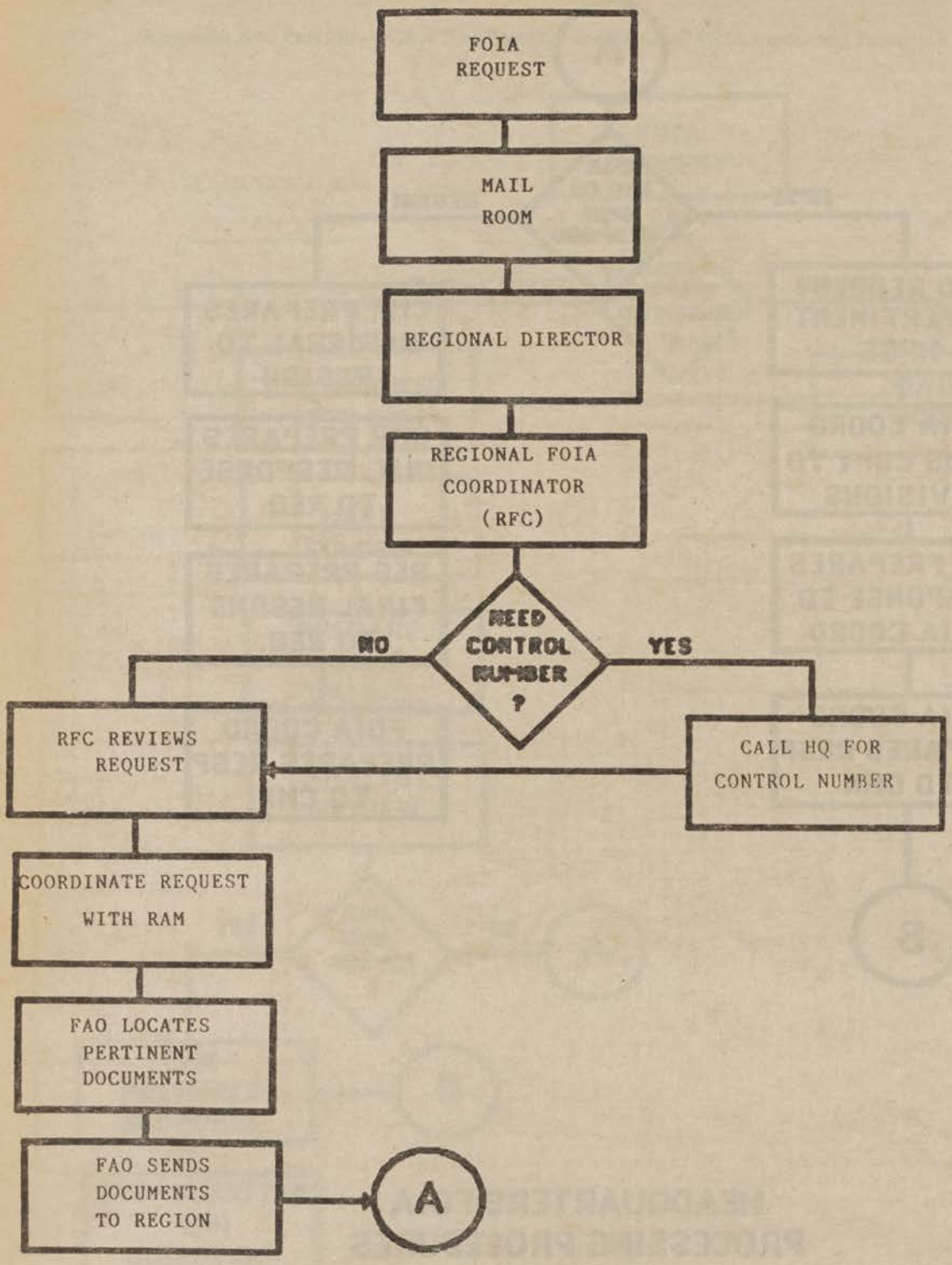
Appendix A to Part 290—DCAA Headquarters and Regional FOIA Processing Procedure Charts



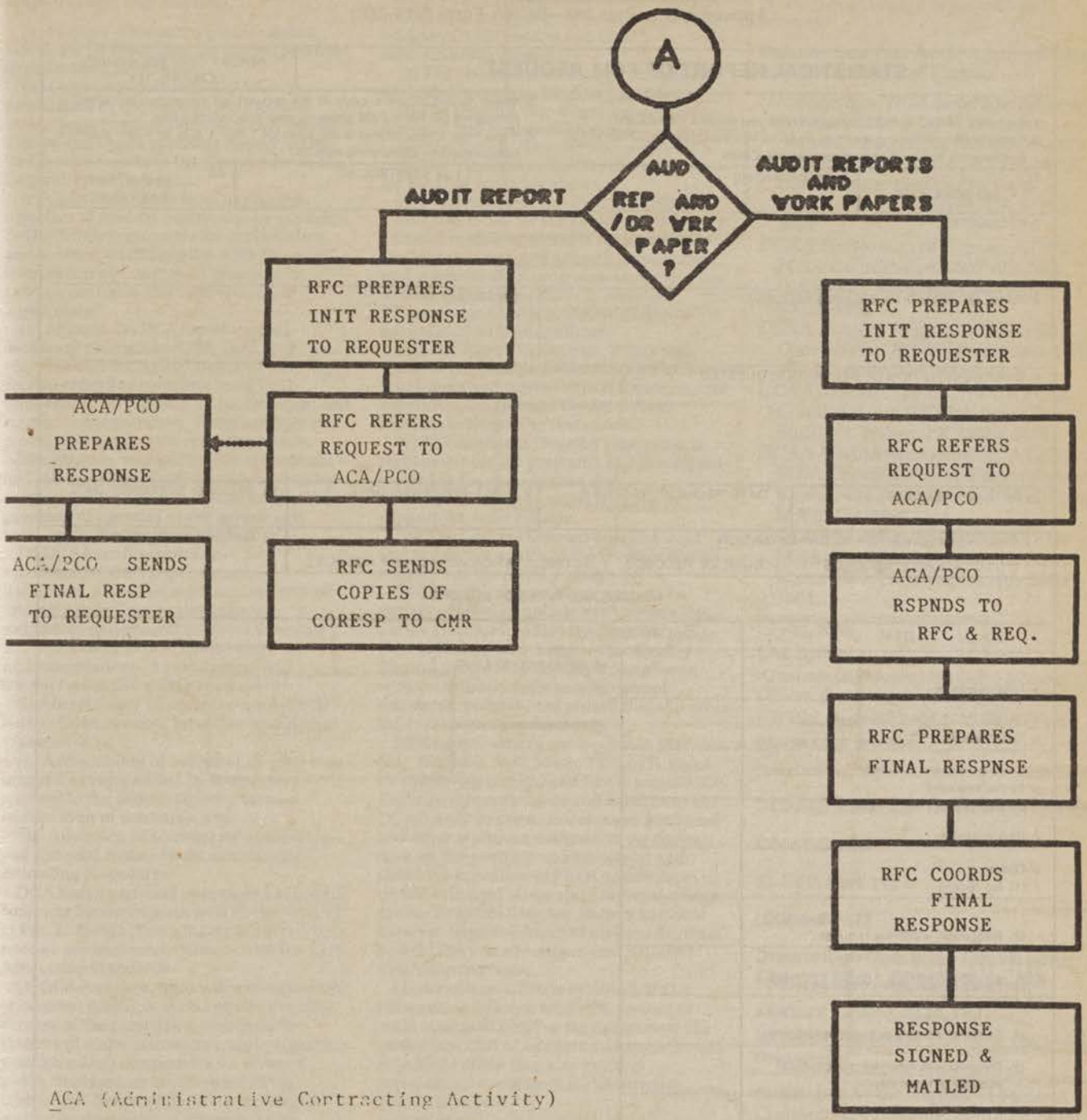
HEADQUARTERS FOIA PROCESSING PROCEDURES



HEADQUARTERS FOIA PROCESSING PROCEDURES (CONT'D)



REGIONAL FOIA PROCESSING PROCEDURES



ACA (Administrative Contracting Activity)

PCO (Procurement Contracting Officer)

REGIONAL FOIA PROCESSING PROCEDURES (CONT'D)

BILLING CODE 3810-01-C

Appendix B to Part 290—DCAA Form 5410-2(R)

STATISTICAL REPORT OF FOIA REQUEST			REPORT CONTROL SYMBOL CMR/AR/-161
INSTRUCTIONS 1 Complete items 1 through 10 as soon as you receive the request 2 Complete all remaining items as soon as you complete your final action and forward this form immediately to HQ (CMR)		3 Attach to this report a copy of the request, all correspondence and a completed DD Form 2086 showing your processing costs 4 If you have a request that is still open on 1 Apr, 1 Aug, or 1 Jan, submit a status report by completing item 16	
TO HQ DCAA (CMR)	1 FROM (Region)	2a CONTROL NO	2b ___ Interim report ___ Final report
3 REQUESTER			
4 NAME OF INDIVIDUAL SIGNING REQUEST		5 ON BEHALF OF	
6 BRIEF DESCRIPTION OF RECORDS REQUESTED			
7 DATE OF REQUEST	8 DATE REQUEST RECEIVED	9 FIRST SUSPENSE DATE	10 SECOND SUSPENSE DATE
11 CHECK REASON(S) FOR 10-DAY EXTENSION ( ) LOCATION OF RECORDS ( ) VOLUME OF RECORDS ( ) CONSULTATION WITH OTHER AGENCIES			12 DATE OF FINAL ACTION

13 NUMBER AND TYPES OF ACTIONS

ITEM	NUMBER	16 REMARKS/STATUS
a Total releases		
b Total denials		
c Partial releases		
d Partial denials		
e Other (1) No record		
(2) Requester withdrew request		
(3) Failed to reasonably describe record		
(4) Failed to comply with published rules		
(5) Request was referred (specify total number of referrals)		
TOTAL ACTIONS		

14 EXEMPTIONS INVOKED UNDER 5 USC 552(b)(CHECK)
( )1 ( )2 ( )3 ( )4 ( )5 ( )6 ( )7 ( )8 ( )9

15 STATUTE INVOKED IF EXEMPTION (b)(3)

TYPED NAME OF FOIA/PA OFFICER	SIGNATURE	DATE

DCAA FORM 5410-2(R)
NOV 83

BILLING CODE 3810-01-M

Appendix C to Part 290—DCAA Organization and Mission

(a) *Purpose.* This section implements 5 U.S.C. 552 by describing the central and field organizations of DCAA.

(b) *Origin and authority.* DCAA was established by the Secretary of Defense under Department of Defense (DoD) Directive 5105.36 and began operating on July 1, 1965. Its Director reports to the Comptroller of the Department of Defense.

(c) *Objective.* Assist in achieving the objective of prudent contracting by providing DoD officials responsible for procurement and contract administration with financial information and advice on proposed or existing contracts and contractors, as appropriate.

(d) *Mission.* (1) DCAA performs all necessary contract audit for DoD, and provides accounting and financial advisory service regarding contracts to all DoD components responsible for procurement and contract administration. These services are provided in connection with negotiation, administration, and settlement of contracts and subcontracts. It also furnishes advisory contract audit service to a number of other government agencies under agreements between DoD and such agencies.

(2) DCAA audits contractors' and subcontractors' accounts, records, documents, and other evidence; systems of internal control, accounting, costing, estimating, and general business practices and procedures to give advice and recommendations to procurement and contract administration personnel on:

(i) Acceptability of costs incurred under cost, redetermination, incentive, and similar type contracts;

(ii) Acceptability of estimates of costs to be incurred as represented by contractors incident to the award, negotiation, and modification of contracts; and

(iii) Adequacy of contractors' accounting and financial management systems and estimating procedures.

DCAA also performs post-award audits of contracts for compliance with the provisions of Pub. L. 87–653 (Truth in Negotiations), and reviews contractor compliance with the Cost Accounting Standards.

(3) DCAA assists responsible procurement or contract administration activities in their surveys of the purchasing-procurement systems of major contractors; and cooperates with other DoD components on reviews, audits, analyses, or inquiries involving contractors' financial positions or financial and accounting policies, procedures, or practices. DCAA also maintains liaison auditors at major procuring and contract administration offices and provides assistance in the development of procurement policies and regulations.

(e) *Composition.* (1) DCAA consists of seven major organizational components: a Headquarters and six regions. The six regional offices manage over 400 field audit offices (FAOs) and suboffices located throughout the United States and overseas. An FAO is identified as either a branch office or a resident office. Suboffices are established by regional directors as extensions of FAOs when required to furnish contract audit service more economically. A suboffice is dependent on its parent FAO for release of audit reports and other administrative support.

(2) The Headquarters located at Cameron Station, Alexandria, Virginia consists of:

(i) The Director who exercises worldwide direction and control of DCAA.

(ii) The Deputy Director who serves as principal assistant to the Director and acts for the Director in his absence.

(iii) The Assistant Director, Operations, authorized to act for the Director and Deputy Director in their absence, is responsible for staff functions related to audit management, and technical audit programs, supervises the Technical Services Center in Memphis, Tennessee and the procurement/contract administration liaison offices.

(iv) The Assistant Director, Policy and Plans, is responsible for audit policy and procedures and related liaison functions, and supervises the Defense Contract Audit Institute in Memphis, Tennessee.

(v) The Assistant Director, Resources, is responsible for the programs and procedures related to the management and administration of resources required to support the audit mission.

(vi) The General Counsel provides legal and legislative advice to the Director and all members of the Agency staff.

(vii) The Executive Officer performs a variety of special projects and assignments for the Director and Deputy Director.

(viii) The Special Assistant for Quality Control reviews the Agency's compliance with established audit quality control standards, policies, and procedures and other internal control requirements.

(3) Regional offices are located in Marietta, GA; Waltham, MA; Irving, TX; Los Angeles, CA; Philadelphia, PA; and San Francisco, CA. Regional directors direct and administer the DCAA audit mission, and manage personnel and other resources assigned to the regions; manage the contract audit program; and direct the operation of FAOs within their region. Principal elements of regional offices are the Regional Director, Deputy Regional Director, Regional Audit Managers, Regional Special Programs Manager, and Regional Resources Manager.

(4) A resident office is established at a contractor's location when the amount of audit workload justifies the assignment of a permanent staff of auditors and support staff. A resident office may also perform procurement or contract administration liaison functions.

(5) A branch office is established at a strategically situated location within the region, responsible for performing all contract audit service within the assigned geographical area, exclusive of contract audit service performed by a resident or liaison office within the area. A branch office may also perform procurement or contract administration liaison functions.

(6) If requested, a DCAA liaison office is established at a DoD procurement or contract administration office when required on a full-time basis to provide effective communication and coordination among procurement, contract administration, and contract audit elements. Liaison offices assist in effective utilization of contract audit services.

Defense Contract Audit Agency Offices and FOIA Points of Contact

Headquarters, DCAA, ATTN: Records Administrator (CMR), Cameron Station, Alexandria, VA 22304–6178

DCAA Western Region, ATTN: FOIA Coordinator, 450 Golden Gate Avenue, San Francisco, CA 94102–3563

DCAA Southwestern Region, ATTN: FOIA Coordinator, 2500 Wilshire Boulevard, Suite 405, Los Angeles, CA 90057–4366

DCAA Eastern Region, ATTN: FOIA Coordinator, 805 Walker Street, Suite 103, Marietta, GA 30060–2731

DCAA Central Region, ATTN: FOIA Coordinator, 5615 High Point Drive, Suite 701, Irving, TX 75038–2414

DCAA Northeastern Region, ATTN: FOIA Coordinator, Waltham Federal Center, 424 Trapelo Road, Waltham, MA 02154–6397

DCAA Mid-Atlantic Region, ATTN: FOIA Coordiantor, 600 Arch Street, Room 4400, Philadelphia, PA 19106–1604

July 10, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–16482 Filed 7–25–89; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5–89–57]

Drawbridge Operation Regulations: Chester River, Chestertown, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule with request for comments.

SUMMARY: At the request of McLean Contracting Company, contractors for the Maryland Department of Transportation, the Coast Guard is issuing a temporary rule to govern the operation of the drawbridge across the Chester River, mile 26.8, at Chestertown, Maryland. This rule is being issued to limit openings during a five-month period, 24-hours a day, to allow the contractor for the State of Maryland, owner of the bridge, to make structural repairs to the bridge, while still providing for the reasonable needs of navigation. Because of the length of time

this temporary rule will be in effect, the Coast Guard requests comments on the rule. The temporary rule may be changed based on comments received.

DATES: This temporary rule is effective from July 7, 1989, to November 30, 1989, unless amended or terminated before that date. Comments on the temporary rule must be received on or before September 11, 1989.

ADDRESS: Comments should be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004. The comments received will be available for copying at Room 507 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, (804) 398–6222.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for any recommended changes to the temporary rule. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

Drafting Information: The drafters of this notice are Linda L. Gilliam, Project Officer, and LCDR K. Kutz, Project Attorney.

Discussion of Temporary Rule: At the request of McLean Contracting Company, contractors for the Maryland Department of Transportation, the Coast Guard is issuing a temporary rule governing the operation of the drawbridge across the Chester River, mile 26.8, at Chestertown. The Maryland Department of Transportation, owner of the bridge, has determined that closure of the drawbridge for a five-month period will be necessary in order to remove the existing drawspan leaves for extensive modification and rebuilding. The State of Maryland has requested that the drawbridge be closed to vessel traffic 24-hours a day, seven days a week, during the five-month period. Current regulations state that the drawbridge shall open on signal from 6:00 a.m. to 6:00 p.m., April 1 through November 30. At all other times it shall open on signal if at least six hours advance notice is given. Vessel traffic on the Chester River is minimal due to shallow waters upstream from the bridge. This regulation is not expected to inconvenience any recreational boaters. The drawspan has opened only four times this year for waterway traffic.

A fixed temporary span will be installed to provide continued vehicle passage on Route 213 during the five-month period. Although the temporary span will be inoperable, boats with mast heights of fourteen feet or less will be able to pass through the flanking sides of the drawspan, and boats with mast heights of nine feet or less will be able to pass under the temporary span. The vertical clearance under the temporary span in lower than the flanking spans due to the support beams under the span extending three feet below the original span. The contractor also has stated that is case of emergencies the temporary span can be removed if they receive three days advance notice. The three day advance notice requirement is necessary because the contractor must obtain a crane to remove the span and the closest one is located in Baltimore, Maryland. Once the bascule leaves have been overhauled, they will be reinstalled and the bridge will resume normal operation.

Since these repairs are necessary to the maintenance of the bridge, I find that good cause exists for publishing this temporary rule without publication of a notice of proposed rulemaking and for making it effective in less than 30 days.

Federalism Assessment: This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the temporary rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification: This temporary rule is not considered major under Executive Order 12291 nor significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This decision is based on the fact that these regulations are not expected to have any effect on commercial navigation or on any businesses that depend on waterborne transportation for successful operations. Since the economic impact on these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

Environmental Impact: This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g. of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and has been placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations: In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.551 is temporarily revised to read as follows:

§ 117.551 Chester River.

The draw of the S213 bridge, mile 26.8 at Chestertown need not open from July 7, 1989 to November 30, 1989, unless a three-day advance notice is given.

3. This temporary rule is effective from July 7, 1989 to November 30, 1989, unless sooner amended or terminated.

Dated: July 6, 1989.

P.A. Welling,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 89–17456 Filed 7–25–89; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD1–89–023]

Temporary Drawbridge Operation Regulations; Kennebec River, ME

AGENCY: Coast Guard, DOT.

ACTION: Final temporary rule.

SUMMARY: At the request of the Maine Department of Transportation (Maine DOT), the Coast Guard is reissuing temporary regulations governing the Carlton drawbridge over Kennebec River, at mile 14.0, between Bath and Woolwich, Maine, to extend the closure period for the evening rush hour 45 minutes and to limit the openings for recreational vessels between 6 a.m. and 6 p.m. to twice a day at 10 a.m. and 2 p.m. for 60 days commencing 31 July through 28 September 1989. The temporary regulation is being made to further examine the effect on vehicular and marine traffic during the above period. This action should accommodate the needs of vehicular traffic, while

providing for the reasonable needs of navigation.

DATE: This temporary regulation becomes effective on 31 July 1989.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (202) 668–7170.

SUPPLEMENTARY INFORMATION: On May 10, 1989, the Coast Guard published a proposed temporary rule (54 FR 20149; May 10, 1989) concerning this amendment. The Commander, First Coast Guard District, also published the proposal as Public Notice 1–687 dated May 9, 1989. In each notice, interested persons were given until May 25, 1989 to submit comments. A 60 day temporary rule was published in the **Federal Register** on 22 June 1989 page 26197 and was distributed as Public Notice 1–690 by the Commander, First Coast Guard District on 1 June 1989. Because the temporary regulations did not permit adequate evaluation of the proposal and since a Public Hearing is scheduled for 24 August 1989 at Bath, Maine and additional 60-day temporary regulation is issued for the period on 31 July through 28 September 1989. The Notice of Proposed Rulemaking and Public Hearing on proposed regulations appears in the proposed rulemaking section of this **Federal Register.** Additional, although the temporary regulation is in effect for only 60 days the regulation is presented in total for clarity and public comment on the entire regulation..

Drafting Information: The drafters of these regulations are Waverly W. Gregory, Jr., Project Officer, and Lieutenant Robert E. Korroch, Project Attorney.

Discussion of Comments: Three responses, two favoring and one opposing the initially proposed 60 day temporary regulations were received to the public notice. One respondent favoring the Proposed regulations indicated that a Maine DOT phase 1 report stated the 1988 annual average daily traffic crossing the Carlton Bridge between Bath and Woolwich and the Davey Bridge in nearby Wiscasset, Maine, was 20,900 and 14,900 respectively, and steadily increasing. The respondent appreciated the need to accommodate navigational traffic, however, the bottleneck at the Carlton Bridge has reached epidemic proportions. The other respondent indicated that the proposed regulation would appear to nicely balance the interests of both water and highway transportation. The one opposing respondent, a charter boat captain, stated that he did not think that the small amount of marine traffic at the bridge is a significant cause of the traffic problems, and that the marine traffic moves quickly through the bridge whenever it is opened, and it is the lift mechanism itself that causes the delays. He also requested that a public hearing be held.

Economic Assessment and Certification: These proposed temporary regulations are considered to be non-major under executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this temporary regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. The intent of this temporary regulation is to collect information to assess how the regulations would accommodate vehicular traffic to and from Bath Iron Works and local parks in the summer when tourist traffic is at its peak. The draw will continue to open on signal for inbound commercial fishing vessels. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Federalism Implication Assessment: This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a Federal assessment.

List of Subjects in 33 CFR 117

Bridges.

Temporary Regulations: In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.525(a) is revised as follows for the period of July 31, 1989 through September 28, 1989.

§ 117.525 Kennebec River.

(a) The draw of the Carlton highway-railroad bridge, mile 14.0 between Bath and Woolwich shall open as follows:

(1) On signal as soon as possible at all times for vessels owned or operated by the United States Government, State and local vessels used for public safety, vessels in distress, and inbound loaded commercial fishing vessels.

(2) Year-round the draw need not open from 6:30 a.m. to 7:30 a.m. and from 3:45 p.m. to 5:30 p.m., Monday to Friday excluding holidays except for vessels noted in (a)(1).

(3) From 1 June through 30 September:

(i) On signal at all times for commercial vessels except as noted in (a)(2);

(ii) For recreational vessels on signal except that from 6 a.m. to 6 p.m. openings only at 10 a.m. and 2 p.m.

(4) From 15 April through 30 May and 1 October through 15 November open on signal:

(i) From 3 a.m. to 7 p.m., except as noted in (a)(2);

(ii) From 7 p.m. to 3 a.m. if four hours' notice is given.

(5) From 15 February through 14 April and 16 November through 15 December at all times on signal, except as noted in (a)(2), if at least 4 hours' notice is given.

(6) From 16 December through 14 February open on signal, exept as noted in (a)(2), if 24 hours notice is given.

* * * * *

Dated: July 19, 1989.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard, District.

[FR Doc. 89–17455 Filed 7–25–89; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD5–89–55]

Drawbridge Operation Regulations: Chuckatuck Creek, Crittenden, VA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the regulations for the U.S. 17 drawbridge across Chuckatuck Creek, mile 1.0, in Crittenden, because the bascule bridge has been removed. A notice of proposed rulemaking has not been issued for this regulation because removal of the bridge eliminates all need for regulation.

EFFECTIVE DATE: August 25, 1989.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704 (804) 398–6222.

Drafting Information: The drafters of this notice are Linda L. Gilliam, Bridge Specialist, and LCDR Robin K. Kutz, Project Attorney.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations for a bascule

bridge that no longer exists. Consequently, this action is not considered major under Executive Order 12291 on Federal Regulation nor significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). Since there is no economic impact, a full regulatory evaluation is unnecessary. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b). Nevertheless, the Coast Guard certifies that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended to read as follows:

PART 117—DRAWBRIDGE REGULATIONS

1. The Authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05.1(g).

§ 117.1005 [Removed]

2. Section 117.1005 is removed.

Dated: July 6, 1989.

P.A. Welling,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 89-17457 Filed 7-25-89; 8:45 am]

BILLING CODE 4910-14-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-26

[FPMR Temp. Reg. E-90, Supp. 1]

Ordering Items From the GSA Supply Catalog

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the expiration date of FPMR Temporary Regulation E-90 on ordering items from the GSA Supply Catalog to July 31, 1990.

DATES: *Effective date:* August 1, 1989. *Expiration date:* July 31, 1990.

FOR FURTHER INFORMATION CONTACT: Brian E. Freeman, Assistant Commissioner, Officer of Strategic Business Planning (703-557-7570).

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of subjects in 41 CFR Part 101-26

Government property management.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation supplement is added to the appendix at the end of Subchapter E to read as follows:

Federal Property Management Regulations Temporary Regulation E-90 Supplement 1

July 10, 1989.

Ordering Items From the GSA Supply Catalog

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation E-90.

2. *Effective date.* This regulation is effective on August 1, 1989.

3. *Expiration date.* This supplement expires on July 31, 1990.

4. *Background.* FPMR Temporary Regulation E-90 was issued to revise the policy on ordering items from GSA. The regulation applies only to the stock and special order programs, not to the Federal Supply Schedule program.

5. *Explanation of change.* The expiration date in paragraph 3 of FPMR Temporary Regulation E-90 is extended to July 31, 1990.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89-17337 Filed 7-25-89; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6740

[CA-940-09-4214-10; CACA-24049]

Partial Revocation of Executive Order Dated August 30, 1916; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order insofar as it affects 55 acres of National Forest System land withdrawn and reserved pending investigation and classification in connection with irrigation and power uses. The land is no longer needed for the purpose for which it was withdrawn. This action will open 55 acres to surface entry to permit consummation of a U.S. Forest Service exchange. The land has been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: August 10, 1989.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, E-2845 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, 916-978-4820.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order dated August 30, 1916, which withdrew and reserved public land and National Forest System land pending investigation and classification in connection with irrigation and power uses is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

Inyo National Forest

T. 1 S., R. 26 E.,
Sec. 15, NW¼NW¼, NE¼SW¼NW¼, and N½NW¼SW¼NW¼.

The area described contains 55 acres in Mono County.

2. At 10 a.m. on August 10, 1989, the lands shall be opened to such forms of disposition as may by law be made of National Forest System lands, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

Frank A. Bracken,

Under Secretary of the Interior.

July 20, 1989.

[FR Doc. 89-17497 Filed 7-25-89; 8:45 am]

BILLING CODE 4310-40-M

FEDERAL MARITIME COMMISSION

46 CFR Part 580

[Docket No. 88-19]

Rule on Effective Date of Tariff Changes

AGENCY: Federal Maritime Commission.

ACTION: Stay of final rule; correction.

SUMMARY: This notice corrects an error in the heading of the Commission's Stay of Final Rule published July 11, 1989, (54 FR 29036). The reference to "46 CFR Part 502" should read "46 CFR Part 580."

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street,

NW., Washington, DC 20573, (202) 523-5725.

Joseph C. Polking,
Secretary.

[FR Doc. 89-17413 Filed 7-25-89; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 22

[CC Docket No. 88-161; FCC 89-229]

Certain Filing Procedures for Mobile Services Division Applications and Elimination of Form 430; Public Land Mobile Services; Cellular Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: In this Memorandum Opinion and Order (MO&O), the FCC considered petitions for reconsideration and comments from the Office of Management and Budget seeking modification of the Report and Order in Docket No. 88-161. In the Report and Order, the FCC has amended § 22.6 of its rules to require that all Mobile Services Division (MSD) applications, amendments, correspondence, pleadings, exhibits, and attachments be submitted on microfiche. The petitions and comments contended that the microfiche requirement was a burden to the public in terms of cost and the time involved to file microfiche copies and the requirement to file pleadings on microfiche did not permit sufficient time for the preparation and submission of opposition and reply pleadings in a timely manner. The MO&O modified the microfiche requirement to allow the microfiche copies for the opposition and reply pleading to be filed within 15 calendar days after the paper copies are filed and to exempt emergency filings like the letter requesting special temporary authority from the microfiche requirement.

EFFECTIVE DATE: September 25, 1989.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Sandra Donnell, Mobile Services Division, Common Carrier Bureau, (202) 632-6450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order adopted July 7, 1989 and released July 20, 1989. The full text of this action is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this action may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

1. On November 16, 1988, the Commission released a Report and Order, FCC 88-339 (Report and Order), which amended Part 22 of the Commission's Rules (53 FR 48909, December 5, 1988). The Report and Order amended the rules to require that all Mobile Services Division (MSD) applications, amendments, correspondence, pleadings, exhibits and attachments be submitted on microfiche. Several parties filed petitions for reconsideration of the microfiche requirement. Because the microfiche proposal imposes new and modified requirements and burdens upon the public, it was subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. OMB granted a two year approval of the amended rule subject to several conditions which were considered in modifying the microfiche requirement.

2. Petitioners expressed concern that the microfiche requirement imposes significant burdens in terms of the cost and the time required to file microfiche copies, particularly for applicants in areas where microfiche services are not readily available. They were concerned that the short filing deadlines for opposition and reply pleadings imposed by § 1.45 of the Commission's rules (10 days and 5 days, respectively) do not permit sufficient time for the preparation and submission of pleadings in microfiche form. Petitioners also requested clarification on whether the number of paper copies that must be filed will be an original and four copies as required by § 1.51(c)(2) of the Commission's rules. Further, petitioners propose that emergency filings like request for special temporary authority (STA) be exempt from the microfiche requirement.

3. The MO&O has modified the microfiche requirement where possible to reduce the burden on the public and permit the Commission to meet its objective. The microfiche copies for opposition and reply pleadings may be submitted within 15 calendar days after the paper copies have been filed. Emergency filings like the letter requesting a STA will be exempt from the microfiche filing requirement. Also, in emergency situations the applicant may submit a request for extension of time to meet the microfiche filing requirement. A person's rural or otherwise isolated or inaccessible location would be one factor together with others that might justify granting a waiver or an extension of time in which to file the microfiche copies. Additionally, the Commission notes that, so long as the paper filing is correct and legally sufficient, an application or other document will not be dismissed solely on the ground that the microfiche copies have mistakes, but rather the applicant will be asked to file corrected microfiche copies in a prompt fashion.

4. In the Report and Order, FCC Form 405 (Application for Renewal of Radio Station License) was inadvertently not included in the list of applications to be filed on microfiche and submitted to OMB. There is no reason for FCC Form 405 not to be included. This form is subject to approval by OMB. Since there will not be any renewal filing periods for two years, there is sufficient time to request this approval. Until such time the microfiche requirement for FCC Form 405 will not be enforced.

5. The Commission has experienced a significant increase in filings in the MSD. This increase necessitated a change in filing procedures to resolve the problem of lack of space while ensuring the integrity and ease of access to station files. We selected microfiche as the best short-term, low cost solution to the problem. Microfiche is compatible with other Commission information systems and the characteristics of microfiche ensure that it would not be costly to change from microfiche to another form of technology should the need arise.

6. Accordingly, the Commission affirmed the microfiche requirement with the indicated modifications. Part 1 and Part 22 of the Commission's Rules are hereby amended as specified in the Rules Section appended to this summary.

List of Subjects

47 CFR Part 1

Practice and procedure.

47 CFR Part 22

Communications common carriers, Public mobile service.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendments to Parts 1 and 22 of the Commission's Rules

Title 47, Parts 1 and 22 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 1 and Part 22 continues to read as follows:

Authority: Secs. 1, 4(i) and 303(r) of the Communications Act of 1934, 47 U.S.C. 151, 154(i) and 303(r), and sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

* * * * *

PART 1—PRACTICE AND PROCEDURE

2. Section 1.45 is amended by republishing the introductory text, and by revising paragraphs (a) and (b) to read as follows:

§ 1.45 Pleadings; filing periods.

Except as otherwise provided in this chapter, pleadings in Commission proceedings shall be filed in accordance with the provisions of this section.

(a) *Oppositions.* Oppositions to any motion, petition, or request may be filed within 10 days after the original pleading is filed. For matters related to Part 22 of the rules, these microfiche copies must be filed within 15 calendar days of the paper filing (see § 22.6).

(b) *Replies.* The person who filed the original pleading may reply to oppositions within 5 days after the time for filing oppositions has expired. The reply shall be limited to matters raised in the oppositions, and the response to all such matters shall be set forth in a single pleading; separate replies to individual oppositions shall not be filed. For matters related to Part 22 of the rules, three microfiche copies must be filed within 15 calendar days of the paper filing (see § 22.6).

* * * * *

3. Section 1.49 is amended by adding paragraph (e) as follows:

§ 1.49 Specifications as to pleadings and documents.

* * * * *

(e) In addition to the provisions above, pleadings related to Part 22 of the rules, must also be submitted on microfiche. See § 22.6 for specifications.

4. Section 1.51 is amended by revising paragraphs (c) (1) and (2) to read as follows:

§ 1.51 Number of copies of pleadings, briefs and other papers.

* * * * *

(c) * * *

(1) If the paper filed relates to matters to be acted on by the Commission, an original and 4 copies shall be filed. If the matter relates to Part 22 of the rules, see § 22.6.

(2) If the paper filed related to matters to be acted on by staff officials under delegated authority, an original and 4 copies shall be filed. If the matter relates to Part 22 of the rules, see § 22.6.

* * * * *

PART 22—PUBLIC MOBILE SERVICES

5. Section 22.6 is amended by revising the introductory text of paragraph (d) and paragraph (d)(1) to read as follows:

§ 22.6 Filing of applications, fees, and numbers of copies.

* * * * *

(d) Except as otherwise specified, all applications, amendments, correspondence, pleadings and forms shall be submitted on microfiche with three microfiche copies, including exhibits and attachments thereto, and shall be signed as prescribed by § 1.743 (see § 22.913 for specific filing requirements for applications for initial cellular, and § 22.923 for specific filing requirements for applications for rural cellular radio communications system authorizations.) Filings of five pages or less are exempt from the requirement to submit on microfiche, as well as emergency filings like letters requesting special temporary authority. Non-cellular and non-initial cellular applicants and those filing any amendments, correspondence, pleadings, and forms must simultaneously submit the original hard copy which must be stamped "original". In addition to the original hard copy, those filing pleadings under Part 22 of the rules shall also submit 2 paper copies as provided in § 1.51 of the rules.

(1) *Microfiche copies.* Each microfiche copy must be a copy of the signed original. Each microfiche copy shall be a 148mm X 105mm negative (clear transparent characters appearing on an opaque background) at 24X to 27X reduction for microfiche or microfiche jackets. One of the microfiche sets must be a silver halide camera master or a copy made on silver halide film such as Kodak Direct Duplicatory Film. The microfiche must be placed in paper microfiche envelopes and submitted in a 5" X 7.5" envelope. All applicants must leave Row "A" (the first row for page images) of the first fiche blank for in-house identification purposes.

* * * * *

[FR Doc. 89-17431 Filed 7-25-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 36

[CC Docket Nos. 78-72, 80-286; FCC 89-224]

RIN 3060-AE07

Jurisdictional Separations Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission amends its Part 36 separations rules to assign the cost of mixed use special access lines to the state jurisdiction when ten percent or less of the overall traffic on the special access line is interstate. The cost of mixed use special access lines carrying a greater proportion of interstate traffic would be directly assigned to the interstate jurisdiction. This action is taken pursuant to a Federal/State Joint Board Recommended Decision in this proceeding. The Commission concluded that this approach will resolve existing problems and accord proper recognition to state and federal regulatory interests while avoiding the problems that would result from an allocation-based approach dividing the cost of each special access line between the two jurisdictions.

EFFECTIVE DATE: January 28, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Claudia Pabo, Policy and Program Planning Division, Common Carrier Bureau (202) 632-4047.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (FCC 89-224) adopted June 29, 1989 and released July 20, 1989. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. At present the cost of mixed use special access lines are generally assigned to the interstate jurisdiction, and customers generally order such lines from the interstate tariffs. The Commission instituted a proceeding to re-examine the separations treatment of mixed use special access lines because the present approach has tended to deprive state regulators of authority

over largely intrastate private line systems carrying only small amounts of interstate traffic. The Commission requested that the Federal-State Joint Board in CC Docket No. 80–286 prepare recommendations concerning these issues.

2. On February 8, 1989, the Commission released the Joint Board's Recommended Decision regarding changes in the separations treatment of mixed use special access lines (4 FCC Rcd 1352 (1989)). The Joint Board found that state interests would be better served by permitting states to regulate charges for intrastate lines carrying small amounts of interstate traffic. The Joint Board recommended that the cost of mixed use special access lines be directly assigned to the intrastate jurisdiction when the lines carry *de minimis* amounts of interstate traffic in addition to intrastate traffic. The Joint Board concluded that interstate traffic should be deemed *de minimis* when it amounts to ten percent or less of the total traffic on a special access line. The cost of a mixed use line would be directly assigned to the interstate jurisdiction if the line carried a greater proportion of interstate traffic. In order to ensure that the benefits of direct assignment were not lost through burdensome verfication requirements, the Joint Board recommended a carefully circumscribed, uniform system of verification for use with the proposed separations procedures.

3. The Joint Board did not recommend direct interstate assignment of the cost of all mixed use special access lines because such a method would undermine state regulatory authority by allowing customers to avoid state tariff regulation through the addition of *de minimis* amounts of interstate traffic to private line systems carrying primarily intrastate communications. The Joint Board also concluded that it should not recommend allocation of the cost of each mixed use special access line between the state and federal jurisdictions based on relative use or a fixed allocation factor because any benefits generated by these methods would be greatly outweighed by their disadvantages in terms of increased adminstrative burdens and decreased efficiency.

4. The Commission's Decision and Order in this proceeding (FCC 89–224) adopted the Joint Board's recommendation subject to minor changes in implementation measures. The Commission also adopted the Joint Board's reasoning in support of its recommendation.

Ordering Clauses

Accordingly, we adopt the revisions to Part 36 of the Commission's rules recommended by the Joint Board effective January 28, 1990.

List of Subjects in 47 CFR Part 36

Jurisdictional separations procedures; Standard procedures for separating telecommunications property costs, Revenues, Expenses, Taxes and reserves for Telecommunications companies.

Part 36 of Title 47 of the Code of the Federal Regulations is amended as follows:

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES

1. The authority citation for Part 36 continues to read as follows:

Authority: Secs. 1, 4 (i) and (j), 205, 221(c), 403 and 410, as amended, 47 U.S.C. 151, 154 (i) and (j), 205, 221(c), 403 and 410.

§ 36.154 [Amended]

2. Section 36.154 (a) is amended by revising subcategory 1.1 and subcategory 1.2 to read as follows:

(a) * * *

Subcategory 1.1—State private lines and state WATS lines. This subcategory shall include all private lines and WATS lines carring exclusively state traffic as well as private lines and WATS lines carrying exclusively interstate traffic as well as private lines and WATS lines carrying both state and interstate traffic if the interstate traffic on the line involved constitutes ten percent or less of the total traffic on the line.

Subcategory 1.2—Interstate private lines and interstate WATS lines. This subcategory shall include all private lines and WATS lines that carry exclusively interstate traffic as well as private lines and WATS lines carrying both state and interstate traffic if the interstate traffic on the line involved constitutes more than ten percent of the total traffic on the line.

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Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–17392 Filed 7–25–89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86–277; RM–5276]

Radio Broadcasting Services; Dothan, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 267A to Dothan, Alabama, as that community's fourth local FM service, in response to a petition for rule making filed on behalf of Reuben C. Hughes. See 51 FR 24872, July 9, 1986. Coordinates used for Channel 267A at Dothan are 31–12–13 and 85–19–54. With this action, this proceeding is terminated.

DATES: Effective September 5, 1989; The window period for filing applications on Channel 267A at Dothan, Alabama, will open on September 6, 1989, and close on October 6, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 86–277, adopted June 30, 1989, and released July 20, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Alabama, is amended by revising the entry for Dothan, by adding Channel 267A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–17393 Filed 7–25–89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88–385; RM–6272]

Radio Broadcasting Services; Fayetteville, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 280C1 for Channel 280A at

Fayetteville, Arkansas, and modifies the Class A license of Noalmark Broadcasting Corporation for Station KKIX(FM), as requested to specify operation on the higher class channel, thereby providing that community with an additional expanded coverage FM service. See 53 FR 32633, August 26, 1988. Coordinates used for Channel 280C1 at Fayetteville are 36–05–38 and 94–10–16. With this action, the proceeding is terminated.

EFFECTIVE DATE: September 5, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88–385, adopted June 30, 1989, and released July 20, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Arkansas, is amended by revising the entry for Fayetteville, by deleting Channel 280A and adding Channel 280C1.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–17394 Filed 7–25–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–103; RM–4984 and RM–5456]

Radio Broadcasting Services; Troy, Louisiana, Bowling Green, Springfield, and Columbia, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Columbia FM, Inc., allocates Channel 264A to Troy, Louisiana, as that community's first local FM service. Channel 264A can be allocated to Troy, Louisiana, in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.4 kilometers (2.1 miles) northwest to prevent shortspacing to pending applications at Alton, Illinois, and Cape Girardeau, Missouri. To accomplish this allocation, the Commission substitutes Channel 231A for Channel 265A at Bowling Green, Missouri and modifies the license of Pike County Broadcasting, Inc., accordingly. Finally, the Commission concludes that the public interest will be served by upgrading Station KARO, Columbia, Missouri, from Channel 269A to Channel 268C2, pursuant to § 1.420(g)(3) of the Rules, and modifies the license of Columbia FM, Inc., to reflect the higher class channel. To accomplish this upgrade, the Commission substitutes Channel 267C for Channel 268C at Springfield, Missouri, and modifies the license of Stereo Broadcasting, Inc., accordingly. With this action, this proceeding is terminated.

DATE: Effective September 5, 1989. The window period for filing applications for Channel 264A at Troy, Missouri, will open on September 6, 1989, and close on October 6, 1989.

FOR FURTHER INFORMATION CONTACT: Douglas Minster, Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 86–103, adopted June 30, 1989, and released July 20, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for Part 73 continues to read as follows:

PART 73—[AMENDED]

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. § 73.202(b), the Table of FM Allotments is amended by revising the entry for Bowling Green, Missouri by removing Channel 265A and adding Channel 231A, by revising the entry for Columbia, Missouri by removing Channel 269A and adding Channel 268C2, by revising the entry for Springfield, Missouri, by removing Channel 268C and adding Channel 267C, and by adding Troy, Missouri, Channel 264A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–17395 Filed 7–25–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–485; RM–5991]

Radio Broadcasting Services; Brownwood, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 257C2 for Channel 257A at Brownwood, Texas, and modifies the license of Station KPSM(FM) to specify operation on the higher class co-channel, at the request of Group R Broadcasting, Inc. The community would receive its third wide coverage area FM service. A site restriction of 14.0 kilometers (8.7 miles) northwest of the city is required. The coordinates are 31–48–41 and 99–03–54. Concurrence of the Mexican government has been obtained. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 5, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 87–485, adopted June 30, 1989, and released July 20, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. § 73.202(b), the Table of FM Allotments is amended, under Texas, by removing Channel 257A and adding Channel 257C2 at Brownwood.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-17396 Filed 7-25-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 207, 209, 215, 219, 225, 226, and 252

[Defense Acquisition Circular (DAC) 88-11]

Department of Defense Federal Acquisition Regulation Supplement; Regulatory and Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rules.

SUMMARY: Defense Acquisition Circular (DAC) 88-11 amends the DoD FAR Supplement (DFARS) with respect to computer-aided acquisition and logistics support; Army debarring official representative; subcontract pricing considerations; contracting with small disadvantaged business concerns (SDBs), evaluation preference; and recoupment of nonrecurring costs on sales of U.S. products and technology. This DAC also contains editorial corrections and an information item with respect to logistic support and privileges for DoD contractor personnel and family members.

EFFECTIVE DATE: September 28, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD (P) /DARS, OASD (P&L), c/o OUSD (A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DoD FAR Supplement is codified in Chapter 2 Title 48 of the Code of Federal Regulations.

The October 1, 1988, revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 86-1 through 86-16.

B. Public Comments

DAC 88-11, Item I

Public comments are not solicited with respect to this item because it is an information item and does not include revisions to the DFARS.

DAC 88-11, Items II, III, IV, VII, and VIII

Public comments are not solicited with respect to these revisions since such revisions do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors, or do not have a significant effect beyond agency internal operating procedures.

DAC 88-11, Item V

A proposed rule was published in the **Federal Register** on May 26, 1988 (53 FR 19009), and public comments were solicited. Those public comments were considered in the development of this final rule.

DAC 88-11, Item VI

A proposed rule was published in the **Federal Register** on December 8, 1988 (53 FR 49577), and public comments were solicited. Part of the proposed rule contained coverage with respect to follow-on procurements in order to assist disadvantaged business firms in transitioning to large business status. Several commenters voiced concern over the impact this coverage would have on small and small disadvantaged businesses. Accordingly, that portion of the coverage has been withdrawn pending further review.

C. Regulatory Flexibility Act

DAC 88-11, Item I

The Regulatory Flexibility Act does not apply to this item.

DAC 88-11, Items II, III, IV, V, VII, and VIII

The final rules do not constitute a significant revision within the meaning of Pub. L. 98-577, and publication for public comment is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected DoD FAR Supplement Subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately. Please cite DAR Case 89-610D in correspondence.

DAC 88-11, Item VI

Comments related to the impact on small entities were limited to that portion of the coverage which was withdrawn. However, a Final Regulatory Flexibility Analysis will be prepared and forwarded to the Chief Counsel for Advocacy of the U.S. Small Business Administration. Interested parties desiring to obtain a copy of the Analysis may contact the Executive Secretary of the DAR Council.

D. Paperwork Reduction Act

DAC 88-11, Item I

This item is provided for information purposes. The Paperwork Reduction Act does not apply.

DAC 88-11, Items II through VIII

These rules do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Parts 207, 209, 215, 219, 225, 226, and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

[Defense Acquisition Circular No. 88-11]

July 21, 1989.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective September 28, 1989.

Defense Acquisition Circular (DAC) 88-11 amends the DoD Federal Acquisition Regulation Supplement (DFARS) 1988 Edition and prescribes procedures to be followed. The following is a summary of the amendments and procedures.

Item I—Logistic Support and Privileges for DoD Contractor Personnel and Family Members (Information Item)

DAC # 86-9, dated 30 November 1987, Item XII, entitled Logistic Support and Privileges for DoD Contractor Personnel and Family Members, lists items of logistic support which may be included in DoD contracts and establishes annual dollar values for authorized support privileges. DAC 88-11 contains an updated notice applicable to contracts to be performed in the Federal Republic of Germany and Italy that support U.S. Government missions and involve individual logistic support and privileges granted by the United States Army, Europe (USAREUR), and Seventh Army to contractor personnel and their family members. The guidance contained in the updated notice is effective for all applicable DoD contracts awarded between October 1, 1989 and October 1, 1991. This item cancels and supersedes Item XII of DAC # 86-9, dated as above.

Special notice to contracting officers executing contracts to be performed in the Federal Republic of Germany and Italy that support US Government missions and involve individual logistic support and privileges granted by the United States Amry, Europe (USANEUR), and Seventh Army to contractor personnel and their family members.

The attention of all contracting officers writing contracts for performance in the Federal Republic of Germany and Italy is directed to DFARS 225.870. The following procedures and criteria apply for authorizing or obtaining individual logistic support and privileges for DoD contractor personnel and their family members in USANEUR. Contracts negotiated with US and 3d Country national physicians for services rendered in support of US medical activities may include military exchange (AAFES–EUR) privileges without reference to specific financial consideration due to US Government. Contractor personnel who do not qualify for treatment as members of the civilian component, within the meaning of the NATO Status of Forces Agreement and the Supplementary Agreement thereto, cannot use US Forces facilities for the purchase of any goods other than for immediate comsumption on the premises. Eligibility criteria remains unchanged.

a. To receive logistic support from USAREUR, contractor personnel who will work in the Federal Republic of Germany must—

(1) Be technical experts (see Appendixes A and B) who will serve the US Forces exclusively, and must perform either in an advisory capacity in technical matters, or for the set-up, operation or maintenance of equipment;

(2) Not be stateless persons;

(3) Be nationals of a NATO state, excluding the Federal Republic of Germany; and

(4) Not be ordinarily resident in the Federal Republic of Germany.

Note.—"Ordinarily resident" generally refers to a US citizen who has: (1) Resided continuously in the Federal Republic of Germany or Berlin for one year or more without status as a member of the "Force" or "Civilian Component" (as defined in the NATO Status of Forces Agreement); or (2) has obtained a work permit of any duration in the host country.

b. To receive logistic support from USAREUR, contractor personnel who will work in Italy must—

(1) Be technical experts who exclusively serve the US Forces; and

(2) Be citizens of a NATO state other than Italy.

c. In accordance with DFARS 225.870, the items of logistic support listed below may be included in contracts awarded on or before 1 October 1991. USAREUR may be contractually bound to provide such support, provided that (i) the contract exclusively serves a US Forces mission; (ii) contractor personnel meet eligibility criteria outlined above; and (iii) the contract contains specific financial or other consideration which the US Government will receive in return for providing individual logistic support.

(1) Commissary (includes rationed items).

(2) AAFES Facilities (Military Exchange) (includes rationed items).

(3) Armed Forces Recreation Facilities.

(4) Class VI (alcoholic beverages, includes rationed items).

(5) Customs Exemption.

(6) Legal Assistance.

(7) Local government transportation for official Government business (nontactical vehicle).

(8) Local Morale/Welfare Recreation Services.

(9) Military Banking Facilities.

(10) Military Postal Service.

(11) Mortuary Service.

(12) Officer or NCO/EM Clubs.

(13) POV (privately-owned vehicle) license for USAREUR.

(14) POV registration for USAREUR.

(15) Purchase of POL (petroleum and oil products).

(16) Transient Billets.

Note.—Transient billets may be authorized on a space-available basis after all other eligible personnel have been billeted.

(17) Messing facilities at remote sites only (reimbursable).

(18) Army Continuing Education Services.

(19) Credit Union Facilities.

(20) Dependent Schools, on a space-available, tuition-paying basis.

Note.—Dependent Schools are not authorized on a space-required basis for contractor personnel.

(21) Medical/Dental Services on a reimburseable basis: dental care, available only for emergency conditions, on a reimbursable basis.

(22) Pet/Firearms Registration and Control.

(23) NATO Status of Forces Agreement Stamp.

Note.—New contracts which include office space logistical support require prior written approval of the Commander-in-Chief, USAREUR (ATTN: AEAEN–IF).

d. Above individual logistic support privileges may only be included in contracts according to one of three packages:

(1) Individual Logistic Support "Package A" includes all privileges listed in Items (1)–(23).

(a) Estimated annual dollar value per individual contractor employee	$6,368
(b) Estimated annual dollar value per spouse	$3,747
(c) Estimated annual dollar value per family member other than (a) and (b)	$1,785
(d) Estimated annual dollar value per family of 3 or more	$11,900

(2) Individual Logistic Support "Package B" includes privileges listed in Items (3)–(23).

(a) Estimated annual dollar value per individual contractor employee	$4,423
(b) Estimated annual dollar value per spouse	$2,102
(c) Estimated annual dollar value per family member other than (a) and (b)	$365
(d) Estimated annual dollar value per family of 3 or more	$6,890

(3) Individual Logistic Support "Package C" includes privileges listed in Items (5), (7), and (17)–(23). These items will be made available to all contractor personnel who qualify as technical experts under this circular without reference to specific financial consideration.

Note.—Estimated annual dollar value (unless otherwise noted, this value is defined as the difference between costs in obtaining goods and services from USAREUR sources versus costs in obtaining comparable services on the economy).

e. Logistic support for spouse and/or family members will be authorized only if specifically stated in the contract.

f. Contracting officers must ensure that:

(1) The eligibility criteria in a. above have been met;

(2) Technical expert status, as defined in Appendix A, and individual logistic support are required to attract the skills required for effective contract performance;

(3) The contractor has completed the certificate at Appendix B, for filing with the master contract;

(4) The items of logistic support are included in the contract; and

(5) The contracting officer representative (COR) of the USAREUR sponsoring agency must request an Accreditation Letter from CINCUSAREUR (ATTN: AEUPE–PSSD–

PPL, APO 09081). COR must submit the following:

(a) Statement of compliance with the provisions of the special notice;

(b) Name of prospective contract company/corporation;

(c) The contract number and expiration date;

(d) The full name of contract personnel, their citizenship social security and passport numbers, the number of family members (if included in contract), and planned arrival date (if already in country, state present employment and geographical area);

(e) Period of accreditation not to exceed one year;

(f) The specific package (A, B, or C) of logistic support and privileges included in the contract, a copy of the front page of the contract and that portion which addresses individual logistic support privileges;

(g) APO address of the European sponsoring agency to which the accreditation letter should be forwarded. This should be the military office/element to which the contractor is assigned for administrative and operational control.

Note.—The contracting officer may only commit the government to provide status of support after documenting the basis of his determination and source of approvals in the master contract file.

g. Foreign Military Sales (FMS) Contracts: Contracts in support of foreign military sales to foreign governments are subject to this circular, in accordance with DFARS 1–103. The values defined as differences or savings, in paragraph d. above, are not directly applicable to U.S. Government administrative support costs in foreign military sales agreements. The direct or indirect costs to the U.S. Government for logistic support provided to FMS contractors (and charged to the requesting country) must be determined on a case-by-case basis considering factors such as: geographic place of performance and specific support requested/provided.

Appendix A—Technical Expert Guidance

1. Definition of "Technical Expert": Employee must meet requirements listed below:

a. For purpose of applying Article 73 of the NATO SOFA Supplementary Agreement, "technical expert" refers to a person with a high degree of skill or knowledge in the systematic procedure by which a complex or scientific task is accomplished, as distinguished from routine mental, manual or physical processes. The skills and knowledge must have been acquired through a process of higher education or through a long period of specialized experience. Skills normally classified as "blue collar" are generally not included. Thus, skilled workers, craftsmen and tradesmen such as electricians, plumbers, painters, masons and carpenters are generally not included. Similarly, not all "white collar" skills are included.

b. The following are examples of positions that have been granted "technical expert" status under Article 73:

(1) Automobile warranty repair technicians for repair of complex automotive equipment;

(2) Key executive and supervisor positions of a government-owned contractor-operator facility which performed major maintenance of U.S. vehicles.

(3) Computer software engineers.

c. The following are examples of positions that have been denied "technical expert" status under Article 73:

(1) Secretaries, clerk-typists;

(2) Sales representatives for computers, encyclopedias, clothes, china, jewelry, and similar items;

(3) Automobile sales representatives; and

(4) Administrative personnel.

2. Contracting offices shall not obligate the government to provide logistic support or grant "technical expert" status to employees of contractors unless all of the following conditions are met:

a. Certificate of Employee Technical Expert Status (Appendix B) is completed by the contractor and maintained with master contract;

b. The contracting officer determines that conferral of "technical expert" status and provision of individual logistic support the technical skills needed for effective contract performance;

c. Financial savings realized by conferring "technical expert" status and providing individual logistic support to some or all of the contractor's employees are reflected in the contract price.

Note.—In the event the contracting officer has doubts, which cannot be resolved by supporting legal counsel, approval of "technical expert" status should be obtained on a position-by-position basis from CINCUSAREUR, ATTN: AEUPE–PSSD–PPL, APO NY 09081.

Appendix B—Certificate of Employee Technical Expert Status

(Contracts Performed in Federal Republic of Germany)

This is to certify that the following individuals are Technical Experts as provided in Article 73, NATO SOFA Supplemental Agreement and DAC 86–9, since they are as of (day)____(month)_____(year)____:

a. Technical experts as defined in DAC 86–9 who will exclusively serve the U.S. Forces; and

b. Will serve either in an advisory capacity in technical matters or to set-up, operate or maintain equipment.

NAMES OF EMPLOYEES

SSN AND PPN #

No additional fee or cost will be charged by the contractor, should either the conclusion or any part of the data here stated be determined by a U.S. contracting officer to be so erroneous, inaccurate or noncurrent as to disqualify the above employee(s) for Article 73 "technical expert" status.

Contract #1 _____
Company _____
Job Title _____
Date of Execution: _____

Item II—Cancellation of ASPM #2, Small Purchase Manual (Final Rule)

The Armed Services Procurement Regulation Small Purchase Manual, ASPM #2, dated 31 March 1976, is hereby canceled. The DAR Council has concluded that the manual is outdated and not suitable for reprint. Further, the material contained in ASPM #2 will be included in the course material presented as part of the Defense Acquisition Education and Training Program outlined in DoD Directive 5000.52.

Item III—Computer-Aided Acquisition and Logistics Support (CALS) (Final Rule)

The Deputy Secretary of Defense has directed that plans for new weapons systems and related major equipment items should use Computer-Aided Acquisition and Logistics Support (CALS) standards. Action has been initiated to include these requirements in pertinent systems acquisition regulations. The DAR Council has approved a revision to DFARS 207.105(b)(12) to address CALS in acquisition plans.

Item IV—Army Debarring Official (Final Rule)

DFARS 209.470 is revised to reflect the correct designation for the authorized representative of the Secretary of the Army for the purposes of FAR Subpart 9.4.

Item V—Subcontract Pricing Considerations (Final Rule)

DFARS 215.804, 215.805, and 215.806 concerning subcontract pricing policies and procedures have been revised to provide amplifying guidance of FAR changes and to consolidate requirements for ease of use. Associated FAR coverage will appear in FAC 84–51.

Item VI—Contracting With Small Disadvantaged Business Concerns (SDBs); Evaluation Preference (Final Rule)

DFARS 219, 226, and 252 are revised to further implement Section 1207 of Pub. L. 99–661, section 806 of Pub. L. 100–180, and Section 844 of Pub. L. 100–456. Sections 219.001, and 226.7003 and 252.219–7007(d) are revised to provide that Historically Black Colleages and Universities (HBCUs) and Minority Institutions (MIs) will be given the same

evaluation preference as that accorded to small disadvantaged business (SDB) concerns in unrestricted procurements. Sections 219.7000 and 252.219-7007 are revised to provide that the evaluation preference will not be applied in acquisitions over the dollar threshold for the Trade Agreements Act when the low offeror is offering an eligible end product or where the application would otherwise violate an agreement or memorandum of understanding with a foreign government. Sections 219.508, 219.7002, 252.219-7007, and 252.219-7010 are revised to provide that, in an unrestricted procurement, an SDB regular dealer, in order to qualify for the evaluation preference, must provide the product of an SDB concern, if available; in a partial small business set-aside, in order to be eligible for preferential consideration, an SDB dealer or manufacturer must provide the product of an SDB concern, if available. In either case if the product of an SDB concern is not available, the dealer must provide the product of a small business to get the preference evaluation or preferential treatment.

Item VII—Recoupment of Nonrecurring Costs on Sales of U.S. Products and Technology (Final Rule)

DFARS 252.271-7001 is revised to add a flowdown procedure which was inadvertently omitted when the coverage was published in DAC #88-5.

Item VIII—Editorial Corrections (Final Rule)

(a) DFARS 252.208-7006 is revised to change the word "provision" in the introductory paragraph to read "clause".

(b) Paragraph (b)(3)(i) of the clause in DFARS 252.227-7013 is revised to reflect the correct reference.

Adoption of Amendments

Therefore, the DoD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 207, 209, 215, 219, 225, 226, and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 207—ACQUISITION PLANNING

207.105 [Amended]

2. Section 207.105 is amended by adding to paragraph (b)(12) paragraph (v) to read: "Describe the extent of Computer-Aided Acquisition and Logistics Support (CALS) implementation (see MIL-STD-1840A)."

PART 215—CONTRACTING BY NEGOTIATION

215.804-6 [Amended]

3. Section 215.804-6 is amended by removing paragraph (g)(3).

215.805-5 [Amended]

4. Section 215.805-5 is amended by removing paragraphs (i) and (j).

5. Sections 215.806-2 and 215.806-3 are added to read as follows:

215.806-2 Prospective subcontractor cost or pricing data.

(e) The contract clause shall also give to the contracting officer a unilateral right, subject to the Disputes procedure, to determine the prime contract adjustment, if agreement on such price cannot be reached by the parties within a reasonable time.

215.806-3 Field pricing reports.

(a) If in the opinion of the contracting officer or auditor, the review of a prime contractor's proposal requires further review of subcontractor's cost estimates at the subcontractor's plants (after due consideration of reviews performed by the prime contractor), these reviews should be fully coordinated with the ACO having cognizance of the prime contractor before being initiated. The contracting officer's need to complete negotiations in a timely manner should be strongly considered before initiating additional reviews. If a review of a subcontractor's proposal is necessary, the ACO for the prime contractor shall forward the request to the ACO for the subcontractor with an informational copy to the auditor for the subcontractor. If a lower tier subcontract proposal requires review, the request should be coordinated in sequence with the ACO at the higher tiers in the subcontract chain. The resulting pricing reports, including any audit reports, shall be forwarded by the subcontract ACO to the prime ACO with an information copy to the prime auditor. An information copy should also be provided to the prime contractor unless the report contains information the audited party does not want disclosed.

(b) The appropriate contract administration activities will be notified by the PCO when review and evaluation of subcontractor's proposals will require extensive field pricing assistance in connection with acquisition of a major weapon system, or require special or expected action by field pricing personnel and such action is being or has been delayed.

PART 219—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

6. Section 219.508 is amended by redesignating the existing paragraph (S-72) as (S-72)(1); and by adding paragraph (S-72)(2), to read as follows:

219.508 Solicitation provisions and contract clauses.

* * * * *

(S-72)(1) * * *

(S-72)(2) The contracting officer shall insert the clause with its Alternate I when the contracting officer determines, in coordination with the contracting activity's SADBUS, that there are no SDB manufacturers available that can meet the requirements of the solicitation.

* * * * *

7. Section 219.7000 is amended by removing in the first sentence of paragraph (a) between the reference "Pub. L. 99-661" and the words "section 806" the word "and" and adding a comma; by adding a comma and the words "and section 844 of Pub. L. 100-456" before the reference in parentheses; by designating the last sentence of paragraph (a) as paragraph (1); by redesignating the existing paragraphs (a)(1) through (a)(4) as paragraphs (a)(1)(i) through (a)(1)(iv); by removing the existing paragraphs (a)(5) and (a)(6); by redesignating the existing paragraphs (a)(7) and (a)(8) as paragraphs (a)(1)(v) and (a)(1)(vi); and by adding paragraph (a)(2), to read as follows:

219.7000 Policy.

* * * * *

(2) The evaluation preference shall not be applied to—

(i) Otherwise low offers of (A) eligible products under the Trade Agreements Act as defined in 225.401 when the acquisition equals or exceeds the dollar threshold stated in FAR 25.402, or (B) qualifying country end products as defined in 225.001; or

(ii) Where the application would be inconsistent with a Memorandum of Understanding or any other international agreement with a foreign government (see Appendix T).

* * * * *

219.7001 [Amended]

8. Section 219.7001 is amended by adding at the end of the section a sentence to read: "Offers submitted by HBCUs/MIs shall be evaluated as though they were from SDB concerns (see 252.219-7007(d))."

219.7002 [Amended]

9. Section 219.7002 is amended by adding a sentence at the end of the section to read: "The contracting officer shall insert the clause with its Alternate I when the contracting officer determines, in coordination with the contracting activity's SADBUS, that there are no SDB manufacturers available that can meet the requirements of the solicitation."

PART 225—FOREIGN ACQUISITION

225.403 [Amended]

10. Section 225.403 is amended by adding paragraph (c) to read:

(c) But see 219.7000.

* * * * *

PART 226—OTHER SOCIOECONOMIC PROGRAMS

226.7003 [Amended]

11. Section 226.7003 is amended by removing in the first sentence between the reference "Pub. L. 99–861" and the words "Section 806" the word "and" and adding a comma; by adding a comma and the words "and Section 844 of Pub. L. 100–456" before the word "established"; by changing the years "1987–89" to read "1987–90"; and by adding at the end of the section a sentence to read: "In the event an HBCU or MI submits an offer under an unrestricted acquisition that offers an evaluation preference for SDBs, the HBCU or MI offer shall be evaluated as if it had been submitted by an SDB concern (see 252.219–7007(d))."

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.208–7006 [Amended]

12. Section 252.208–7006 is amended by changing the word "provision" in the introductory paragraph to read "clause".

13. Section 252.219–7007 is amended by changing the date of the clause to read "JUL 1989" in lieu of "NOV 1988"; by removing in the clause at the end of paragraph (a) the word "Deviation"; by designating the text of paragraph (b) beginning with the word "After" as paragraph (b)(1); by adding paragraph (b)(2) to the clause; by designating the introductory text of paragraph (c) of the clause as paragraph (c)(1); by redesignating paragraphs (c)(1) through (c)(4) of the clause as paragraphs (c)(1)(i) through (c)(1)(iv) respectively; by adding paragraph (c)(2) to the clause; by adding paragraph (d); and by adding ALTERNATE I after the end of the clause, to read as follows:

252.219–7007 Notice of evaluation preference for small disadvantaged business (SDB) concerns (Unrestricted).

* * * * *

(b) * * *

(2) The evaluation factor described in paragraph (b)(1) above shall not be applied to (i) otherwise low offers of (A) eligible products under the Trade Agreements Act as defined in DFARS 225.401 when the acquisition equals or exceeds the dollar threshold stated in FAR 25.402, or (B) qualifying country end products as defined in DFARS 225.001; or (ii) where the application would be inconsistent with a Memorandum of Understanding or any other international agreement with a foreign government (see Appendix T to the DoD FAR Supplement).

(c) * * *

(2) An SDB regular dealer submitting an offer in its own name, who did not waive the evaluation preference by checking the box in paragraph (b) above, agrees to furnish, in performing this contract, only end items manufactured or produced by SDB concerns in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, or the District of Columbia. However, this requirement does not apply in connection with construction or service contracts.

(d) *HBCU/MI Offer.* In the event an HBCU/MI, as defined at 226.7002, submits an offer under this solicitation, it shall be evaluated as though it were an SDB concern and shall be required to submit to the Contracting Officer, upon request, a certification as to its HBCU/MI status.

(End of clause)

Alternate I (Jul 1989)

If a determination has been made in accordance with DFARS 219.7002 that there are no SDB manufacturers available who can meet the requirements of this solicitation, insert the following paragraph (c)(2) in lieu of paragraph (c)(2) of the basic clause:

(c)(2) An SDB regular dealer submitting an offer in its own name, who did not waive the evaluation preference by checking the box in paragraph (b) above, agrees to furnish, in performing this contract, only end items manufactured or produced by small business concerns in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, or the District of Columbia. However, this requirement does not apply in connection with construction or service contracts.

14. Section 252.219–7010 is amended by changing the date of the clause to read "JUL 1989" in lieu of "JUN 1988"; by substituting at the beginning of paragraph (c)(3) the words "In order to be entitled to preferential consideration, an" in lieu of the words "A small business or"; by substituting in the first sentence of paragraph (c)(3) of the clause the acronym "SDB" in lieu of the words "small business"; and by adding Alternate I after the end of the clause, to read as follows:

252.219–7010 Notice of partial small business set-aside with preferential consideration for small disadvantaged business (SDB) concerns.

* * * * *

Alternate I (Jul 1989)

If a determination has been made in accordance with 219.508(S–72) that there are no SDB manufacturers available who can meet the requirements of the solicitation, insert the following paragraph (c)(3) in lieu of paragraph (c)(3) of the basic clause:

(c)(3) In order to be entitled to preferential consideration, an SDB manufacturer or regular dealer submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, or the District of Columbia. However, this requirement does not apply in connection with construction or service contracts.

252.227–7013 [Amended]

15. Section 252.227–7013 is amended by changing the reference in paragraph (b)(3)(i) of the clause to read "(b)(1)" in lieu of "(a)(1)".

16. Section 252.271–7001 is amended by adding paragraph (g) at the end of the clause, to read as follows:

252.271–7001 Recovery of Nonrecurring Costs on Commercial Sales of Defense Products and Technology and of Royalty Fees for Use of DoD Technical Data.

* * * * *

(g) The substance of this clause shall be placed in all subcontracts for components or items which can be sold commercially and which meet, or are expected to meet, the threshold set forth herein.

(End of clause)

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BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 27

[Docket No. 56f; Amdt. 27–4]

Nondiscrimination on the Basis of Handicap in Department of Transportation Financial Assistance Programs

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department of Transportation is eliminating a provision in its rule concerning mass transit services for disabled persons which permits incremental expenditures by recipients for the off-peak, reduced

fare program for elderly and handicapped passengers on mainline mass transit services to be counted in the calculation of the three percent limit on required expenditures. This provision is intended to correct a problem in the implementation of Part 27.

EFFECTIVE DATE: This rule is effective August 25, 1989.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street, SW., Room 10424, Washington, DC, 20590. (202) 366-9306 (voice); 202-755-7687 (TDD).

SUPPLEMENTARY INFORMATION:

The Department's regulation concerning mass transit services for persons with disabilities (49 CFR Part 27, Subpart E; published at 51 FR 18944, May 23, 1986) requires recipients to provide disabled riders with transportation services that meet enumerated service criteria (49 CFR 27.95). However, recipients are not required to exceed a "limit on required expenditures" of three percent of their operating expenses in order to do so (49 CFR 27.97). The purpose of the latter provision (sometimes referred to as a "cost cap") is to prevent recipients from incurring undue financial burdens in implementing services for persons with disabilities. Applicable court interpretation of section 504 of the Rehabilitation Act of 1973 precludes the Department from imposing undue financial burdens for this purpose.

The Department's regulation (49 CFR 27.99) specifies those expenditures which a recipient may count in determining whether it has reached the limit on required expenditures. This final rule concerns 49 CFR 27.99(b)(5), which provides that among the expenditures recipients may count are "incremental costs of compliance with 49 CFR 609.23."

Under 49 CFR 609.23, Urban Mass Transportation Administration (UMTA) recipients, during non-peak hours, must charge to elderly and handicapped riders no more than half the normal peak-hour fares applicable to other persons. This long-standing UMTA requirement, which implements 49 U.S.C. 1604(m), applies to mainline transit service, and UMTA has never applied it to special service for elderly and handicapped persons.

By the "incremental" costs of the half-fare program, the Department in 49 CFR 27.99(b)(5) meant those costs (including foregone revenues and administrative costs) the recipient incurs for implementing the half-fare program for handicapped persons. The portion of the costs attributable to providing half-fare transportation to non-disabled elderly persons is not counted toward the limit on required expenditures for service to handicapped persons under 49 CFR Part 27.

In litigation brought by disability groups concerning Part 27, a Federal District Court in Philadelphia determined that the cost cap provision of the rule was invalid. The Department appealed this decision to the Federal Court of Appeals for the Third Circuit, which affirmed the District Court decision in this respect. (The appeals court also directed the Department to make other, more sweeping, changes in the regulation.) The Department sought a rehearing in this case, which the court granted. Arguments were held on May 15, 1989, and a decision is pending. Meanwhile, the Department's rule remains in effect.

The District Court also found the rule's reduced fare provisions to be invalid. The Department did not appeal this portion of the decision, principally because the Department believes that there is some merit to concerns that have been expressed about the provision. Consequently, the Department is eliminating § 27.99(5). This amendment will modify the implementation of the existing regulation, so long as it continues in effect.

In response to the Department's Notice of Proposed Rulemaking (NPRM) on this subject,[1] the Department received ten comments; four from transit agencies, three from state government agencies and three from groups representing the interest of disabled persons. In addition, the Department received one request for an extension of time to file comments. However, because of the low volume and general nature of the comments that were received, and because this is not a complex rulemaking, concerning only a single subject, the Department determined that such an extension was unnecessary.

The NPRM on this subject discussed several procedural conerns regarding the regulatory process surrounding the original adoption of this provision. First, it was argued that the Department did not consider adequately, at the time of the adoption of Subpart E, the effects of § 27.99(b)(5) on the likelihood that recipients would exceed the limit on required expenditures, and therefore be unable to meet all service criteria. Another concern relates to the fact that the Department did not expressly propose, in the notice of proposed rulemaking for Subpart E, making half-fare program costs eligible to be counted toward the limit on required expenditures. None of the commenters addressed these procedural issues, focusing instead on the substantive merits of § 27.99(b)(5).

First, the NPRM noted suggestions that the provision is inconsistent with the basic rationale of § 27.99. That is, to be eligible to count in the calculation of the limit on required expenditures, an expenditure must be one "specifically to comply with the requirements of 49 CFR Part 27, Subpart E" (51 FR 19029, May 23, 1986). Expenditures that Part 27 does not itself require (e.g., service to non-disabled elderly persons, expenditures to comply with the Architectural Barriers Act of 1968 or state or local accessibility requirements going beyond those of Part 27) cannot be counted toward the limit on required expenditures. This is because the limit on required expenditures is designed to prevent the requirements of Part 27 from imposing undue financial burdens on recipients. The cost of compliance with a requirement imposed exclusively by some other authority is by definition, not a financial burden imposed by Part 27.

The argument has been made that, while the incremental costs of compliance with 49 CFR 609.23 are imposed by UMTA itself, and while they relate to services for handicapped persons, they are not costs imposed by 49 CFR Part 27. They could not contribute, therefore, to the imposition by Part 27 of an undue financial burden on any transit authority. According to this argument, then, it is inconsistent with the rationale of section 27.99 to permit them to be counted. (The NPRM published at the same time as the May 1986 final rule proposed bringing 49 CFR 609.23 into Part 27, however.) This very point was raised by two commenters, organizations representing the interests of disabled persons. Another group also argued that not only were half-fare costs not imposed under Part 27, but further that there is no legislative history behind Section 504 of the Rehabilitation Act of 1973 supporting the inclusion of such incremental costs in determining the level of financial burden sustained by a transit authority in meeting 504 requirements.

A second argument raised in the NPRM is that the provision may create a counterproductive result in transit systems where service to disabled persons is provided by special service. The special service is required by 49 CFR 27.95(b)(1) to persons who, by

[1] 53 FR 23778, June 24, 1988.

reason of handicap, are physically unable to use the regular bus system. These individuals do not, of course, benefit from the half-fare program, which is applied only to mainline transit. Given § 27.99(b)(5), the amount spent on the half-fare program could reduce the resources the transit authority would be required to make available to provide service to those who could not use mainline transit. Again, this argument was echoed in the comments of several disabled persons' groups as well as by one state government agency. One commenter even suggested that elimination of incremental costs from the cost cap would lead to greater accuracy of accounting for expenditures for paratransit.

Third, several commenters, reiterating a previously raised point, remarked to the Department that it may be very difficult to calculate the incremental cost of the half-fare program attributable to its use by handicapped, as distinct from non-disabled elderly, persons. Many transit authorities do not distinguish between categories of persons eligible for the half-fare program. Separating out the portion of the half-fare program costs attributable to handicapped persons would require either a burdensome change in the recipient's recordkeeping system for that program or an inexact estimate of the rough proportion of handicapped persons using the program.

Several commenters, notably several transit agencies, opposed the elimination of § 27.99(b)(5). These commenters argued that since the half-fare policy, like section 504, is intended to increase accessibility of mass transit to the disabled, the incremental costs associated with half-fare programs should be included in calculating 504 expenditures. Any other policy, these commenters contend, is inequitable.

These commenters, however, did not address many of the concerns about application of the rule. Only one transit authority offered that separating the costs of providing half-fare service to the handicapped from that to the elderly would not be administratively burdensome; the rest offered no opinion on the subject. Furthermore, none of the commenters opposed to the elimination of § 27.99(b)(5) rule dealt with the argument that inclusion of incremental costs could disproportionately siphon money away from paratransit service for disabled persons, thereby decreasing access to mass transit.

In fact, in support of eliminating the provision, one commenter noted that elimination of incremental costs from the 504 limit should not pose any financial burden on transit authorities because half-fare programs do not actually produce revenue losses. That is, half-fare passengers represent riders (and, therefore, revenue) that otherwise would not come to the transit providers at all.

The Department has concluded, for the reasons discussed in this preamble and in the preamble to the NPRM, that disallowing half-fare program costs in calculating the Part 27 cost cap is more consistent with the intent of Part 27 than continuing to allow these costs. The comments opposing the elimination of the provision do not persuade the Department that retention of this provision is necessary or desirable. Therefore, the Department is eliminating the provision.

Regulatory Process Matters

This rule is not a major rule under Executive Order 12291 or, since it affects only one narrow subparagraph of Part 27, a significant regulation under the Department's Regulatory Policies and Procedures.

UMTA recipients which would be considered to be small entities do not incur significant costs for the reduced fare program. Therefore, the Department certifies, for purposes of the Regulatory Flexibility Act, that this final rule does not have a significant economic impact on a substantial number of small entities. The Department has also determined that this proposal does not involve sufficient Federalism impacts to warrant the preparation of a Federalism assessment.

List of Subjects in 49 CFR Part 27

Handicapped, Mass transportation.

Issued this 17th day of July, 1989, in Washington, DC.

Samuel K. Skinner,

Secretary of Transportation.

For the reasons set forth in the preamble, the Department amends 49 CFR Part 27, Subpart E, as follows:

PART 27—[AMENDED]

1. The authority citation for 49 CFR Part 27 continues to read as follows:

Authority: 29 U.S.C. 794, 49 U.S.C. 1621.

§ 27.99 [Amended]

2. By removing and reserving § 27.99(b)(5).

[FR Doc. 89-17299 Filed 7-25-89; 8:45 am]
BILLING CODE 4910-62-M

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[FV-89-051]

Kiwifruit Grown in California; Proposed Rule to Revise Grade, Pack and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the minimum grade requirement for California kiwifruit by reducing the current allowance for misshapen fruit. It would also establish minimum weight requirements for tray-packed fruit; revise the tray equivalent size designations used in packing volume-filled containers and require such containers to be marked with those designations; and reduce the allowable size variance for the two smallest size designations of packed fruit. The proposed actions would tend to result in better quality fruit being provided to consumers, and a reduction in buyer confusion caused by the lack of uniformity in current kiwifruit packing practices.

DATES: Comments must be received by August 25, 1989.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number and the date and page number of this issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone (202) 447-2431.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 920 and Marketing Order No. 920 (7 CFR Part 920), regulating the handling of kiwifruit grown in California. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issues pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 145 handlers of California kiwifruit subject to regulation under the marketing order, and approximately 1,225 producers in the production area. The Small Business Administration (13 CFR 121.2) has defined small agricultural producers as those having annual gross revenue for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California kiwifruit may be classified as small entities.

The 1988 California kiwifruit harvest totalled 8.4 million trays and tray equivalents, 5 percent larger than the 1987 harvest. For the past ten years, kiwifruit production has increased in California and is expected to increase again in 1989 to a total of about 10.7 million trays. Most of the crop is shipped to fresh markets, with only a small volume of fruit utilized by processors. About 60 percent of fresh shipments is destined for domestic markets, and the remaining 40 percent is exported.

The handling requirements for fresh California kiwifruit are specified in 7 CFR 920.302 (as amended at 53 FR 34035, September 2, 1988, and 53 FR 48513, December 1, 1988). The current requirements specify that kiwifruit must meet a minimum size of 49 and contain at least 6.5 percent soluble solids at the time of inspection. Also included in the current handling regulation are a minimum grade requirement and a number of pack and container requirements. At a meeting held on April 7, 1989, the Kiwifruit Administrative Committee (committee), the agency responsible for local administration of the marketing order, recommended changes in the existing grade, pack and container requirements to become effective on or about October 1, when shipments of the 1989 crop are expected to begin.

Upon the basis of the committee's recommendation, this proposed rule would revise the current minimum grade requirement for fresh shipments of kiwifruit by eliminating the seven percent tolerance provided for misshapen fruit. This rule also proposes the establishment of minimum weight requirements for kiwifruit packed in trays, including containers with cell compartments, cardboard fillers, or molded trays. Additionally, it is proposed that the tray equivalent size designations used in packing bags, volume-fill, or bulk containers be revised; that such containers be required to be marked with those designations; and that the allowable size variance for the two smallest size designations of packed fruit be reduced. Finally, this rule proposes deleting certain definitions from the handling regulation and adding a general definition.

The current minimum grade requirement specifies that fresh shipments of kiwifruit shall grade at least 85 percent U.S. No. 2. However, the total allowance for defects other than shape is limited to eight percent for those causing damage. Included in that eight percent tolerance for defects other than shape is four percent for defects causing serious damage, and one percent for fruit affect by internal breakdown or decay. An additional seven percent allowance is provided for

fruit that fails to meet the shape requirements of a U.S. No. 2 grade. As a result, if no other defects are present in a given lot of kiwifruit, up to 15 percent of the fruit in that lot may be misshapen.

During the 1988–89 season, the committee examined sample trays packed with the maximum number of allowable defects. Based on this examination, it was determined that the current allowance for misshapen kiwifruit is excessive in view of current market demand for high quality kiwifruit. The committee therefore recommended, by a nine to one vote, that the current grade requirement be revised by eliminating the additional seven percent tolerance provided for shape defects.

By far, the majority of the kiwifruit shipped from California exceeds a U.S. No. 2 grade. During the 1988–89 season, 52 percent of the total shipped was U.S. Fancy grade, and 44 percent was U.S. No. 1 grade. Only four percent graded U.S. No. 2. The committee attributes this small volume grading U.S. No. 2 to improved cultural techniques used by growers since the establishment of minimum quality standards under the marketing order. The committee has concluded that this proposed action would result in further improvement in the quality of kiwifruit available from California, which is necessary to enable the industry to market additional volumes of fruit in the face of increasing competition.

About 77 percent of the 1988 crop was shipped to fresh market in trays, with the remainder packed in volume-filled containers, including bags (about 13 percent), volume-fill or cartons (about 10 percent), and bulk containers or bins (less than one percent). While trays continue to be the dominant containers used in packing kiwifruit, the use of volume-filled containers has increased in recent years.

Trays used to pack kiwifruit have cell compartments to hold individual pieces of fruit. All standard trays have the same dimensions, and the number of cell compartments varies according to the count being packed. The size of the fruit packed in these containers is denoted by count, i.e., the number of pieces of fruit packed in the tray. There are currently about 17 sizes packed in trays, ranging from Size 49 (the smallest size permitted to be shipped) to Size 21. The four most prevalent sizes are 33, 36, 39, and 42, which in 1988–89 accounted for 84 percent of the trays packed.

The current requirements for fruit packed in trays specify that these types of containers be marked with a numerical count to designate size, and that the number of fruit in the tray conform to the marked count. In addition, the kiwifruit must be "fairly uniform in size," as defined in the U.S. Standards for Grades of Kiwifruit. Such uniformity is in terms of an allowable variance in diameter among the individual pieces of fruit in a given container. Larger size fruit (Size 30 and larger) may not vary by more than ½-inch in diameter; intermediate size fruit (Sizes 31 to 36) may not vary by more than ½-inch in diameter; and smaller size fruit (Size 39 and smaller) may not vary by more than ¼-inch in diameter. Finally, fruit packed in trays must be of proper size for the cell compartments in which they are packed.

The committee has determined that these requirements do not result in sufficient uniformity in tray packs, and unanimously recommended that minimum weights be established for fruit packed in trays. In making this recommendation, the committee considered the results of weight surveys it has conducted over the past three seasons. These surveys have shown a variation in the weight of trays packed with the same size fruit of as much as 3.6 pounds. For example, trays containing Size 36 (the most widely packed size last season) ranged from 6.00 to 9.56 pounds, and averaged 7.33 pounds.

This variation has resulted in numerous complaints by buyers in the United States and abroad who have received trays that were lighter than expected, and were concerned that they not received full value for the fruit purchased. Because of this, these buyers were less inclined to make additional purchases of California kiwifruit, unless the fruit was offered at a discounted price. Following a California kiwifruit grower survey (in which 71 percent of those participating supported tray weight requirements), the committee agreed that establishing minimum weights for fruit packed in trays would offer the most effective solution to eliminate light trays and undersizing. The minimum weights being proposed vary with the size of the fruit packed, with the smaller fruit having the lowest minimum net weight. For example, fruit of Size 44 or smaller packed in trays would be required to weigh at least 6-½ pounds, and fruit of Size 34 and larger would have to weigh at least 7-½ pounds. This change would contribute to orderly marketing by eliminating the current wide variance in size packaging and improving buyer satisfaction with the product. This requirement could result in slightly higher inspection costs because of the extra time it would take for inspectors to weigh the fruit packed in trays. However, the committee believes the added cost would be more than offset by improved returns resulting from increases in buyer satisfaction and sales.

As previously discussed, in addition to trays, kiwifruit is packed in volume-filled containers. The pack requirements established for fruit in such containers differ from those in effect for tray-packed fruit. Since volume-filled containers are not packed by count, the numerical size designations used for trays are not directly applicable to these containers. To provide a uniform basis for sizing fruit packed in these containers, the numerical counts used in tray packs have been translated into equivalent weight counts that can be applied to fruit in volume-filled containers. For example, fruit from 30-count trays were assembled into 8-pound samples. The number of fruit it took to form an 8-pound sample then became the criterion to determine the size of the fruit in containers other than trays. The current handling regulation includes a table which defines nine numerical count size designations in such a manner. If a volume-filled container is marked with a numerical count size designation, it must be packed in accordance with those definitions. However, marking the container with a size designation is not now required.

This rule proposes revising these tray equivalency size designations, and requiring that volume-filled containers be marked with these established size designations. These changes were recommended by the committee by a nine to one vote.

At the present time, the labeling of volume-filled containers with respect to the size of the fruit is voluntary, and such labeling is far from uniform among handlers. Some handlers use the tray-equivalent count size designations, some use actual counts, and others do not label volume-filled containers with respect to size at all. Requiring the marking of tray equivalent sizes on volume-filled containers would serve to standardize packing practices so that confusion among buyers concerning the content of different packs would be minimized.

This rule also proposes revising the table set forth in paragraph (a)(4)(iii) of § 920.302 which defines the numerical count designations in terms of the maximum number of fruit per 8-pound sample. Over the past four seasons, the industry has conducted surveys of the average number of fruit per sample unit in each of the different size categories. The proposed revision of the size designation table is necessary to

provide more accurate tray equivalencies, reflecting current packing practices.

Kiwifruit packed in volume-filled containers must meet a size uniformity requirement similar to that established for tray-packed fruit. In the case of volume-filled containers, larger size fruit (Size 30 and larger) may not vary by more than ½-inch in diameter, and fruit smaller than a Size 30 may not vary by more than ⅜-inch in diameter.

This rule proposes revising this current size uniformity requirement by decreasing the allowable size variance for Sizes 45/46 and 49 (the two smallest sizes) from ⅜-inch to ¼-inch in diameter. Thus, the proposed revision would require that larger size fruit (Size 30 and larger) may not vary by more than ½-inch in diameter, intermediate size fruit (Sizes 33 to 42) may not vary by more than ⅜-inch in diameter, and small sized fruit (Size 45/46 and smaller) may not vary by more than ¼-inch in diameter. This revision was recommended by the committee by an eight to two vote.

Reducing the allowable size variance would make the pack requirements for volume-filled containers more comparable to those established for trays. Therefore, this action would result in more uniform kiwifuit packing practices. By reducing the allowable variance among the smaller sized fruit, it would also provide a more uniform pack. This requirement could result in slightly higher packing costs because of the extra time required for sorting. However, the committee believes the added costs would be more than offset by improving returns resulted in increases in buyer satisfaction and sales.

Paragraph (b) of § 920.302 now includes definitions of Size 49 and Size 30 for volume-filled containers. Since all size designations are set forth in paragraph (a)(4)(iii) of the regulation, and all sizes are defined in that subparagraph, all of these definitions should be referenced. It is therefore proposed that the definitions for Size 49 and Size 30 be deleted from § 920.302(b) and a general definition referencing the table in paragraph (a)(4)(iii) be added.

In supporting its recommendation for a higher quality standard and more uniform packing requirements, the committee pointed to increasing world production of kiwifruit, which has resulted in added competition in both domestic and export markets. In order to improve grower returns, the committee believes it is necessary to improve buyer perceptions of California kiwifruit relative to kiwifruit from other countries, such as New Zealand, the leading world producer. These proposed changes should help to improve buyer impressions of the product, and make the California industry more competitive in both domestic and foreign markets.

Based on the above, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 920

Marketing agreements and orders, Kiwifruit, California.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 920 be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 920 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 920.302 is amended by revising paragraphs (a)(1), (a)(4) (ii) and (iii) and (b) to read as follows:

§ 920.302 Grade, size, pack and container regulations.

(a) * * *

(1) *Grade requirements.* Fresh shipments of kiwifruit shall grade at least U.S. No. 2: *Provided,* That not more than 8 percent shall be allowed for defects other than shape causing damage, including not more than 4 percent for defects other than shape causing serious damage, and including in this latter amount not more than 1 percent shall be allowed for fruit affected by internal breakdown or decay.

* * * * *

(4) *Pack requirements.*

* * * * *

(ii) Kiwifruit packed in containers with cell compartments, cardboard fillers or molded trays shall be of proper size for the cells, fillers or molds in which they are packed. Such fruit shall be fairly uniform in size. When packed in closed containers the size shall be indicated by marking the container with the numerical count, and the contents shall conform to the marked count. The fruit packed in such containers shall meet the following minimum weight requirements:

Size designation of fruit	Minimum net weight of fruit (lbs.)
34 or larger	7.5
35 to 37	7.25
38 to 40	7.00
41 to 43	6.75
44 and smaller	6.50

Fruit packed in an individual tray may not weigh more than four percent less than the specified minimum net weight.

(iii) Kiwifruit packed in bags, volume fill or bulk containers may not vary more than ½-inch (12.7 mm) in diameter if Size 30 or larger; not more than ⅜-inch (9.5 mm) in diameter if Size 33, 36, 39, or 42; and not more than ¼-inch in diameter (6.4 mm) if Size 45/46 or smaller. Such containers shall be marked with a numerical count size designation as shown in Column 1 of the following table, and the number of fruit per 8-pound sample shall not exceed the corresponding number shown in Column 2 of the table:

Column 1, numerical count size designation	Column 2, maximum number of fruit per 8-pound sample
25	37
27/28	30
30	32
33	35
36	40
39	45
42	50
45/46	57
49	60

* * * * *

(b) *Definitions.* (1) The terms "U.S. No. 2," fairly uniform in size," and "diameter" mean the same as defined in the United States Standards for Grades of Kiwifruit (7 CFR 51.2335 through 51.2340).

(2) Size designations mean the same as defined in the table in (a)(4)(iii) of this section.

Dated: July 18, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–17209 Filed 7–25–89; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-121-AD]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to Airbus Industrie Model A300 series airplanes, which would require repetitive inspections for cracks of an emergency exit torsion box beam, and repair, if necessary. This proposal is prompted by full-scale fatigue testing by the manufacturer, which revealed cracks in certain areas of the torsion box beam. This condition, if not corrected, could lead to reduced structural capability of the fuselage and subsequent decompression of the airplane.

DATES: Comments must be received no later than September 12, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-121-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 431-1918. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-121-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Airbus Industrie Model A300 series airplanes. Results of full-scale fatigue testing by the manufacturer has revealed cracks in the emergency exit torsion box beam between Frame 57A and Frame 58, and between left-hand and right-hand Stringers 14 and 15. This condition, if not corrected, could lead to reduced structural capability of the fuselage and subsequent decompression of the airplane.

Airbus Industrie has issued Service Bulletin A300-53-254, dated February 15, 1989, which describes procedures for repetitive inspections for cracks of the emergency exit torsion box beam between Frame 57A and Frame 58, and between the left-hand and right-hand Stringers 14 and 15, and repair, if necessary. The DGAC has classified this service bulletin as mandatory.

This airplane model is manufactured in France and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive inspections for cracks in the emergency exit torsion box beam between Frame 57A and Frame 58, and between the left-hand and right-hand Stringers 14 and 15, and repair, if necessary, in accordance with the service bulletin previously described.

It is estimated that 66 airplanes of U.S. registry would be affected by this AD, that it would take approximately 7 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $18,480.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 series airplanes, as listed in Airbus Industrie Service Bulletin A300-53-254, dated February 15, 1989, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent reduced structural capability of the fuselage and subsequent decompression of the airplane, accomplish the following:

A. Prior to the accumulation of the number of landings indicated below or within 750 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals indicated below, perform an eddy current inspection of the emergency exit torsion box between Frame 57A and Frame 58, and between the left-hand and right-hand Stringers 14 and 15, in accordance with Airbus industrie Service Bulletin A300–53–254, dated February 15, 1989.

1. For airplanes identified as Configuration 1 in the service bulletin, the initial inspection must be performed prior to the accumulation of 35,900 landings, and repeated thereafter at intervals not to exceed 26,300 landings.

2. For airplanes identified as Configuration 2 in the service bulletin, the initial inspection must be performed prior to the accumulation 26,200 landings, and repeated thereafter at intervals not to exceed 21,500 landings.

3. For airplanes identified as Configuration 3 in the service bulletin, the initial inspection must be performed prior to the accumulation of 35,300 landings, and repeated thereafter at intervals not to exceed 23,100 landings.

4. For airplanes identified as Configuration 4 in the service bulletin, the initial inspection must be performed prior to the accumulation of 25,700 landings, and repeated thereafter at intervals not to exceed 18,800 landings.

5. For airplanes identified as Configuration 5 in the service bulletin, the initial inspection must be performed prior to the accumulation of 34,500 landings, and repeated thereafter at intervals not to exceed 18,100 landings.

6. For airplanes identified as Configuration 6 in the service bulletin, the initial inspection must be performed prior to the accumulation of 25,100 landings, and repeated thereafter at intervals not to exceed 14,700 landings.

B. If cracks found are less than or equal to 15.0 mm (0.59 inch), repair prior to further flight, in accordance with Airbus Industrie Service Bulletin A300–53–254, dated February 15, 1989. After repair, the inspections described in paragraph A., above, are no longer required.

C. If cracks found are greater than 15.0 mm (0.59 inch), repair prior to further flight, in a manner approved by the Manager, Brussels Aircraft Certification Office, FAA, Belgium. After repair, the inspections decribed in paragraph A., above, are no longer required.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, ANM–113, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on July 14, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–17471 Filed 7–25–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–NM–115–AD]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes Equipped with Main Landing Gear (MLG) Barrel Hinge Arms, Messier Part Number C65381–4 or –6

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 series airplanes, which would require replacement of certain main landing gear barrel hinge arms which have a pad cadmium coating. This proposal is prompted by one report of hinge arm rupture during landing gear extension. This condition, if not corrected, could lead to collapse of one main landing gear.

DATES: Comments must be received no later than September 12, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 89–NM–115–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Greg Holt, Standardization Branch, ANM–113; telephone 431–1918. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90–NM–115–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Airbus industrie Model A300 series airplanes. There has been one report of rupture of the main landing gear hinge arm during landing gear extension. Further investigation revealed that the lateral trunnion on the actuating cylinder side was separated from the hinge arm. There was a visible crack on the lower part of the trunnion. Laboratory investigation by the manufacturer revealed that a fatigue crack had developed before the rupture occurred. The crack started from burns produced during a pad dadmium coating process. This condition, if not corrected, could lead to collapse of the main landing gear.

Airbus Industrie has issued Service Bulletin No. A300–32–390, Revision 1, dated December 20, 1988, which

describes procedures for replacing all hinge arms which have undergone a pad cadmium coating process. The service bulletin references Messier-Hispano-Bugatti (MHB) Service Bulletin 470–32–651 for additional replacement instructions. The DGAC has classified these service bulletins as mandatory, and has issued French Airworthiness Directive 88–142–087(B) addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require replacement of all main landing gear barrel hinge arms, Messier Part Number C65381–4 or –6, which have a pad cadmium coating, with hinge arms which either have not been subjected to a pad cadmium coating or have been reconditioned in accordance with MHB Service Bulletin 470–32–652.

Airplanes that have undergone the MLG hinge arm pad cadmium plating in accordance with Airbus Industrie Service Bulletin A300–32–356 (MHB Service Bulletin 470–32–422), dated May 15, 1985, and have since undergone a main workshop overhaul and have been subjected to an electrolytic cadmium stripping and replating in a bath, or which have been reconditioned in accordance with MHB Service Bulletin 470–32–652, are not subject to the requirements of this AD.

It is estimated that 53 airplanes of U.S. registry would be affected by this AD, that it would take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The estimated cost for parts is $270. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $270,030.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 B4–103 and B4–203 series airplanes, equipped with main landing gear (MLG) barrel hinge arms, Messier Part Number C65381–4 or –6, certified in any category. Compliance is required within 12 months after the effective of this AD, unless previously accomplished.

To prevent collapse of one main landing gear, accomplish the following:

A. Except as provided in paragraph B., below, replace all main landing gear (MLG) hinge arms having a pad cadmium coating, with either hinge arms that do not have a pad cadmium coating or hinge arms that have been reconditioned in accordance with MHB Service Bulletin 470–32–652. Replacement is required in accordance with the procedures specified in Airbus Industrie Service Bulletin A300–32–390, Revision 1, dated December 20, 1988.

Note: Airbus Service Bulletin A300–32–390 references Messier-Hispano-Bugatti (MHB) Service Bulletin 470–32–651 for additional replacement procedures.

B. The following airplanes are not subject to the requirements of this AD:

1. Airplanes equipped with MLG hinge arms to which a pad cadmium coating has been applied in accordance with Airbus Industrie Service Bulletin A300–26–356, dated May 15, 1985 (which references MHB Service Bulletin 470–32–422), and have since undergone a main workshop overhaul and have been subjected to an electrolytic cadmium stripping and replating in a bath.

2. Airplanes equipped with MLG hinge arms that have been reconditioned in accordance with MHB Service Bulletin 470–32–652.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on July 14, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–17472 Filed 7–25–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–NM–118–AD]

Airworthiness Directives; Airbus Industrie Models A300, A310, and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to Airbus Industrie Models A300, A310, and A300–600 series airplanes, which would require modification of the nose landing gear (NLG) barrel This proposal is prompted by fatigue testing of the NLG barrel which revealed fatigue cracks between the attachment clevis of the telescopic strut and the upper bearing of the shock absorber. This condition, if not corrected, could lead to collapse of the NLG.

DATE: Comments must be received no later than September 12, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-118-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 431-1918. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-118-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on Airbus Industrie Models A300, A310, and A300-600 series airplanes. Fatigue testing by the manufacturer revealed the development of fatigue cracks in the NLG barrel, between the attachment clevis of the telescopic strut and the upper bearing of the shock absorber. This condition, if not corrected, could lead to collapse of the nose landing gear.

Airbus Industrie has issued the following service bulletins which describes procedures to modify the nose landing gear barrel:

Airplane model	Service bulletins
A300	A300-32-385, Rev. 1, dated October 15, 1988.
A310	A310-32-2039, Rev. 1, dated October 15, 1988.
A300-600	A300-32-6022, Rev. 1, dated October 15, 1988.

The above referenced service bulletins reference Messier-Hispano-Bugatti (MHB) Service Bulletin No. 470-32-577, Revision 1. The French DGAC has classified these service bulletins as mandatory and has issued French Airworthiness Directive 88-185-090(B) addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require modification of the NLG barrel in accordance with the previously described service bulletins.

It is estimated that 90 airplanes of U.S. registry would be affected by this AD, that it would take approximately 62 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The estimated cost for parts is $77,000. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,153,200.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to all Models A300, A310, and A300-600 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent collapse of the nose landing gear (NLG), accomplish the following:

A. Prior to the accumulation of 26,000 landings or within 30 days after the effective date of this AD, whichever occurs later, modify the NLG barrel, in accordance with one of the following service bulletins, as applicable:

Airplane model	Service bulletins
A300	A300-25-385, Rev. 1, dated October 15, 1988.
A310	A310-32-2039, Rev. 1, dated October 15, 1988.
A300-600	A300-32-6022, Rev. 1, dated October 15, 1988.

Note: The above-referenced service bulletins reference Messier-Hispano-Bugatti Service Bulletin 470-32-577 for additional modification procedures.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Ways South, Seattle, Washington.

Issued in Seattle, Washington, on July 14, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-17469 Filed 7-25-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-CE-11-AD]

Airworthiness Directives; Beech 90, 200 and 300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Beech 90, 200, and 300 Series airplanes, which would require an inspection to determine if Scotch foam was installed in either aileron at manufacture and, if present, its removal. This action is necessary to preclude possible aileron flutter due to the foam absorbing water that in-turn could create an unstable aileron balance condition.

DATES: Comments must be received on or before September 11, 1989.

ADDRESSES: Beech Service Bulletin No. 2256, dated November 1988, applicable to this AD may be obtained from Beech Aircraft Corporation, Commercial Services, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89-CE-11-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Don Campbell, Aerospace Engineer, Airframe Branch, ACE-120W, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89-CE-11-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion: Beech Aircraft Corporation manufactured 365 ailerons in the 1985-1988 time frame in which Scotch Damp Y-370 foam may have been installed to prevent "oil-canning" of the aileron skins. These ailerons were installed on 139 models C90A, B200 and 300 airplanes, and the remaining ailerons were sold as spares/replacements for these same models. It has been determined that the Scotch foam could absorb moisture to an extent that the aileron balance would be driven out of acceptable limits. As a result, Beech issued Service Bulletin No. 2256 in November 1988, which calls for removal of Scotch foam from affected models. The Service Bulletin also advises that any ailerons purchased from Beech for these models between January 1, 1985, and March 11, 1988, may have Scotch foam installed.

By letter dated March 14, 1989, to the FAA, Beech supplied analytical data which shows the effects of aileron static balance on flutter speed. The data shows that, if an aileron is balanced to its aft limit, then a small amount of weight aft of the hinge line can cause an unsafe condition. The Scotch foam, which is located aft of the hinge line, can provide this weight change by absorbing water. The flutter analysis data indicates 2.0 ounces of water distributed aft of the hinge line could deplete the available flutter margin.

This is not free water, but water trapped in the Scotch foam. Although no instances of aileron flutter on affected airplanes have been reported, the potential for such a condition has been predicted analytically. Therefore, an AD is proposed applicable to Beech 90, 200 and 300 Series airplanes which would require an inspection to determine if Scotch foam was installed in either aileron at manufacture and, if present, its removal in accordance with Beech Service Bulletin No. 2256, dated November 1988.

The FAA has determined there are approximately 183 airplanes affected by the proposed AD. The cost of removing the Scotch foam per the proposed Ad is estimated to be $360 per airplane which will be borne by the manufacturer if accomplished before November 1989. The total cost is estimated to be $66,000 to the private sector. The total cost of complying with the proposed AD is less than $100 million, the threshold for a significant rule. The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant impact on any small entities operating these airplanes.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85.

§ 39.13 [Amended]

2. By adding the following new AD:

Beech: Applies to 90, 200 and 300 Series airplanes (all serial numbers) certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent possible aileron flutter, accomplish the following:

(a) For Models C90A (S/N LJ-1132 through LJ-1167), B200 (S/N BB-1246 through BB-1285 except BB-1272), 300 (S/N FA-91 through FA-140 except FA-120 and FA-128), A200CT (S/N BP-59 through BP-63), and B200C (S/N BP-64 through BP-66 and BV-1 through BV-8) inspect each aileron using tap procedure in Beech Service Bulletin No. 2256, dated November 1988. If this inspection shows the presence of foam, prior to further flight, remove the foam in accordance with the procedures in the above Service Bulletin.

(b) For all other affected airplanes, check the airplane records to determine if any aileron has been replaced for any reason subsequent to January 1, 1985. If so, inspect the aileron using tap procedure in Beech Service Bulletin No. 2256. If this inspection shows the presence of foam, prior to further flight, remove the foam in accordance with the procedures in the above Service Bulletin.

Note: If the applicability of paragraph (b) is uncertain, perform a "tap test" on each area between the rivet rows along the aft 8.0 inches of the aileron skins. Use care in tapping to reduce the possibility of chipping the paint.

(1) A tinny, hollow sound indicates an acceptable area.

(2) A solid, heavy sound indicates that Scotch foam is present and must be removed.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone (316) 946-4400.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Beech Aircraft Corporation, Commercial Service, Department 52, Wichita, Kansas 67201-0085; or may examine these documents at the FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on July 12, 1989.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-17467 Filed 7-25-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-105-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which would require visual and eddy current inspections of the wing landing gear aft trunnion for cracks and corrosion, and repair or replacement, if necessary. This proposal is prompted by reports of several incidents of landing gear collapse during landing due to corrosion and fatigue cracks. This condition, if not corrected, could result in the inability of the pilot to safely control the airplane during landing.

DATES: Comments must be received no later than September 12, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-105-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Dan R. Bui, Airframe Branch, ANM-120S; telephone (206) 431-1919. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above.

All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-105-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

Several incidents of landing gear collapse during landing due to corrosion and fatigue cracks have been reported by the manufacturer and operators of Model 747 airplanes. One operator reported three cracks in the area of the aft trunnion bearing journal located at the outboard hole of the two trunnion attach bolt holes. Indications are that general corrosion pitting led to the initiation of these cracks. This condition, if not corrected, could result in the

inability of the pilot to safely control the airplane during landing.

The FAA has reviewed and approved Boeing Service Bulletin 747–32–2190, Revision 3, dated June 17, 1983, which describes procedures for removal and rework, or replacement of the wing landing gear aft trunnion outer sleeve, inner race, and bearing adjusting ring.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require visual and eddy current inspection of the wing landing gear aft trunnion for cracks and corrosion, and rework or replacement, if necessary, in accordance with the service bulletin previously described.

There are approximately 583 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 163 airplanes of U.S. registry would be affected by this AD, that it would take approximately 45 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $293,400.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, listed in Boeing Service Bulletin 747–32–2190, Revision 3, dated June 17, 1983, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent landing gear collapse during landing due to corrosion and fatigue cracks, accomplish the following:

A. Inspect as follows:

1. Within the next 60 days after the effective date of this AD, perform a visual and eddy current inspection of the wing landing gear at the trunnion for cracks and corrosion.

a. *Visual inspection*, as defined herein, includes inspecting the trunnion outer diameter (OD) just forward of the aft sleeve and the inner diameter (ID) in a one-inch radius around the cross bolts. The inspected areas must be thoroughly cleaned, and sealant or corrosion preventive compound must be removed from the ID.

b. *Eddy current inspection*, as defined herein, refers to an eddy current inspection technique approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region. This inspection procedure involves removing the cross bolts one at a time and inspecting the landing gear trunnion through the bushing ID surface with eddy current.

2. If cracks or corrosion are found, prior to further flight, remove and rework or replace the wing landing gear aft trunnion outer sleeve, inner race, and bearing adjusting ring, in accordance with Boeing Service Bulletin 747–32–2190, Revision 3, dated June 17, 1983.

3. If no cracks or corrosion are found, repeat the visual inspection described in paragraph A.1.a., above, at intervals not to exceed 6 months. Repeat the eddy current inspection described in paragraph A.1.b., above, at intervals not to exceed 18 months (in conjunction with the visual inspection).

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on July 14, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–17470 Filed 7–25–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–NM–111–AD]

Airworthiness Directives; CASA Model C–212 Series Airplanes, Equipped with a Passenger Entry Step Installed Under Supplemental Type Certificate (STC) SA906GL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain CASA Model C–212 series airplanes, which would require removal of the step, handrails, door latch modifications, and associated hardware installed under STC SA906GL. This proposal is prompted by a report that the step installation may obstruct the visibility of and access to the cabin entry door handle. This condition, if not corrected, could result in impairment of passenger egress during an emergency evacuation.

DATES: Comments must be received no later than September 12, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 89–NM–111–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Chicago Aircraft Certification Office,

2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth W. Payauys, Airframe Branch, ACE-120C; telephone (312) 694-7426. Mailing address: FAA, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-111-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

Following an accident involving a CASA Model C-212 airplane, the National Transportation Safety Board (NTSB) noted following their investigation that the passenger steps on the airplane, installed under STC SA906GL, could obstruct the visibility of and access to the interior door latch for the passenger entry door. This condition, if not corrected, could result in the impairment of passenger egress during an emergency evacuation.

This airplane model is manufactured in Spain and Indonesia and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require removal of the step, handrails, door latch modifications, and associated hardware installed under STC SA906GL, and restore the door handle to the original CASA configuration.

It is estimated that 6 airplanes of U.S. registry would be affected by this AD, that it would take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be less than $1,920.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Casa: Applies to Model C-212 series airplanes equipped with a passenger entry step installed under Supplemental Type Certificate (STC) SA906GL, certificated in any category. Compliance is required within 60 days after the effective date of this AD, unless previously accomplished.

To prevent delay in opening the passenger door in the event of an emergency evacuation, accomplish the following:

A. Remove the step, handrails, door latch modifications, and associated hardware installed in accordance with Fischer Brothers Aviation, Inc., Installation Instructions for FBD-206, Revision F, dated June 5, 1985.

B. Restore the door handle to the original CASA configuration.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Chicago Aircraft Certification Office, ACE-115C, FAA, Central Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Chicago Aircraft Certification Office, ACE-115C.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The applicable service information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Chicago Aircraft Certification Office, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Seattle, Washington, on July 14, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-17473 Filed 7-25-89; 8:45 am]

BILLING CODE 4910-13-M

Office of the Secretary

14 CFR Parts 380 and 399

[OST Docket No. 46410; Notice No. 89-6]

RIN 2105-AB50

Price Advertising

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department is proposing to amend its rule and policy statement with respect to air transportation price advertising under 14 CFR Parts 380 and 399 to comport with its current enforcement policy. The proposal would allow advertisers to list government-imposed and government-approved charges that are levied on a per

passenger basis separately in price advertisements. It also would codify current practice allowing the advertisement of one-way fares that are available only on a round-trip basis, provided the ads are clear with regard to the round-trip conditions.

DATES: Comments are due on or before August 25, 1989.

ADDRESSES: Comments must be filed in Room 4107, Docket 46410, U.S. Department of Transportation, 400 7th St., SW., Washington, DC 20590. Late-filed comments will be considered to the extent possible.

FOR FURTHER INFORMATION CONTACT: Samuel E. Whitehorn, Office of the General Counsel, C–50, (202) 366–9307, Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590.

SUPPLEMENTARY INFORMATION: The Department of Transportation's (DOT or Department) policy on advertising of air transportation, 14 CFR 399.84, states that all price advertisements of flights, tours, or components of tours must state the entire price of the advertised flight, tour, or tour component or the ads will be considered to be unfair and deceptive and thus in violation of Section 411 of the Federal Aviation Act of 1958 (49 U.S.C 1381) ("Act"). Similarly, our public charter rules, 14 CFR 380.30(e), require that any price listed in charter solicitation materials from direct or indirect air carriers or their agents state the entire price of the charter, tour, or any tour component. The policy and the rule are directed at preventing consumer harm that could result from unfair or deceptive trade practices.

On December 24, 1985 (Order 85–12–68), the Department issued an exemption from the price advertising rule and policy statement to permit direct and indirect air carriers for scheduled and charter service and tour operators to state the United States international departure tax separately from other charges in advertisements and promotional materials, provided that the ads clearly state both the amount of the tax and that it must be paid by the passenger. In two other orders, Orders 88–3–25 and 88–8–2, the Department sought to expand the 1985 exemption to cover similar charges, i.e., immigration fees and security surcharges. These two orders were recently struck down by the U.S. Court of Appeals on procedural grounds. *Alaska* v. *Skinner* (868 F. 2d 441 (D.C. Cir. (1989)))

Proposed Change to Rule: Parts 380 and 399

The Department proposes to amend both the charter and scheduled-service price advertising provisions. Consistent with the Department's current enforcement policy, the proposal would permit a separate listing of government-imposed or -approved charges where the charges are levied on individual passengers and, in the case of government-imposed charges, the advertiser collects them to be remitted to the levying government. For the reasons stated in the orders cited above [1] the Department does not consider such ads to be unfair or deceptive provided they are clear and the total amount to be paid by the consumer can be calculated easily by adding the separately-stated fixed amounts. An ordinary person reading such ads would be aware of the total amount to be paid for the transportation and, in addition, would be provided with valuable information on associated government-imposed or -approved surcharges. The Department's experience indicates that these kinds of ads do not cause passenger harm.

The change to the codified provisions would not cover all taxes, charges, fees, and surcharges levied by Federal, state, local or foreign governments, but only those levied on a per passenger basis. Separate listings of passenger surcharges that are not government approved but are set by a carrier in response to a governmental charge that was not levied on a per passenger basis would be considered deceptive. For example, if a local government imposed a per-gallon tax on aviation fuel purchased at its airport, a carrier would be free to increase ticket prices for flights departing from or arriving at that airport. However, such additional fees must be included in the total advertised air fare—not listed separately. If listed separately on a per passenger basis, such surcharge would likely provide inaccurate information on the per passenger cost to the airline of the government fee.

The proposal would continue to allow the separate listing of the $3 U.S. international departure tax. (See Order 85–12–68). Under the proposal, and consistent with existing practice which the Department has not found to have caused any confusion in the past, advertisers also would be able to continue to advertise one-way fares that require round-trip purchases, provided that the advertisement indicates clearly that these fares are available only in conjunction with a round-trip purchase.

Advertisers, under the new rule, would continue to be able to list components of a tour package separately, as long as all of the costs are stated clearly, and also list separately any government-approved or -imposed charges levied on a per passenger basis. The proposed change would not effect the current Internal Revenue Code requirements regarding the eight percent federal tax on all tickets for domestic transportation (see 26 U.S.C 7275). It should also be noted that the Anti-Head tax provision of the Act (49 U.S.C. 1513) precludes certain state and local fees to be imposed on a per-passenger basis.

Under section 411, the Department is responsible for protecting aviation consumers from unfair and deceptive trade practices. These changes are intended to implement that authority fully and clearly and without placing any restrictions on the industry that are not necessary and that would tend to limit airline price competition. The specific charges that would be permitted to be listed separately either are limited, or apply only in certain markets or for certain flights, thus making if difficult or impossible to publich advertisements with one way and round-trip fares to multiple destinations and include the charges in single advertised rates. Commenters should address what effects the proposed changes will have upon consumers and upon advertisers. Would the changes be sufficiently clear so that advertisers will be able to comply? Is the proposed language sifficiently broad so that consumers will be able to discern what is being offered in a given ad and at what price?

On April 21, during the drafting of this document, the Air Transport Association of America (ATA) filed a petition asking the Department to initiate rulemaking. This NPRM is consistent with that request, and thus the request is granted.

Federalism

Under Executive Order 12612, the Department in promulgating regulations is required to review the implications of its actions on the states. In this case, the responsibility for regulating and setting advertising standards for the aviation industry has long been a function and responsibility of the Federal government, as provided by the Federal Aviation Act. Thus, Federalism ramifications will be minimal, if any. In addition, this rulemaking will codify longstanding Federal practices, recently overturned by a court on purely procedural grounds.

In particular areas the states' ability to enforce advertising rules and policies has been preempted by the DOT rules. For example, states would be preempted from regulating airline advertising of

[1] The order were not published in the **Federal Register**.

fares and schedules since DOT has specific rules covering deceptive practices in these areas. To allow the 50 states to regulate price advertising and institute related enforcement proceedings would subject the carriers to inconsistent standards and thus seriously interfere with interstate commerce. The Airline Deregulation Act of 1978 enabled carriers to offer their services on a competitive basis, in terms of services and prices. Prosecutorial action and court decisions in different jurisdictions could affect a carrier's ability to compete. For example, if a state attorney general in state A forced an air carrier to include all taxes in its quoted fare (as opposed to the proposal which would allow the carrier to separate the per capita taxes), the carrier could be placed at an unfair competitive position vis-a-vis other carriers not before the state enforcement authority or one who advertised in an out-of-state publication, or vis-a-vis a foreign carrier. In addition, section 105 of the Federal Aviation Act specifically prohibits state regulation related to airline rates, routes and services and state regulation of advertising that can significantly affect airline rates, routes and services could clearly violate that provision. Thus, the Federal aviation Act and the commerce clause dictate that there be one industry-wide price advertisement standard.

In reviewing whether it would be feasible for each of the states to regulate price advertising as they saw fit, there are a number of possible considerations. For example, the states could help to curb advertising abuses. On the other hand, without a uniform policy, carriers would find it virtually impossible to put together nation-wide advertising programs that accurately portray the price of their services. Price competition would suffer, thus depriving consumers of lower fares. Comments are requested on what, if any, are the Federalism implications of this rulemaking.

Paperwork

The Paperwork Reduction Act (Pub. L. No. 96–511) establishes policies and procedures for controlling paperwork burdens imposed by Federal agencies on the public. If a rule does in fact impose such a burden, approval from the Office of Management and Budget is necessary before the burden can be imposed.

This proposal does not impose any paperwork burdens on advertisers. This rule merely codifies existing practices and enforcement policies. In addition, even if the NPRM were not merely codifying existing practices and policies, there would be no burdens imposed on the industry since the rule would not require that an advertiser state surcharges separately; it merely permits that form of advertisement.

Regulatory Impact Analysis and Review

Executive Order 12291 on "Federal Regulation" and the DOT Policies and Procedures require the preparation of a regulatory impact analysis for every "major" rule. A major rule is defined as a regulation that is likely to result in: An annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individuals, industries, Federal, State or local governments, or geographic regions; or a significant adverse effect on competition, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises. Under the above criteria, this rule is not considered "major". However, due to public interest, it is considered to be "significant" under the DOT Policies and Procedures. The economic impact of this rulemaking will be so minimal that an economic evaluation is not warranted. Those subject to the rule and policy will be able to continue to advertise their services, consistent with past industry practices, so there should be no additional costs to consumers or advertisers. Moreover, uniform rules could make advertising more efficient.

Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. No. 96–354, is designed to ensure that agencies consider flexible approaches to the regulation of small businesses and other small entities. It requires regulatory flexibility analyses for rules that will have a significant economic impact on a substantial number of small entities.

While this proposal may affect a substantial number of small entities, the proposed changes will not have a significant impact on them. Therefore, I certify that this rulemaking will not have a significant impact on a substantial number of small businesses or entities.

List of Subjects

14 CFR Part 380

Public charters, Surety bonds, Advertising, Antitrust, Charter flights, Consumer protection, Education study program, Travel agents, Tour operators.

14 CFR Part 399

Administrative practice and procedures, Advertising, Air carriers, Antitrust, Agreements, Archives and records, Consumer protection, Foreign air carriers, Reporting and recordkeeping requirements, Travel agents.

In consideration of the foregoing, Parts 380 and 399 of Title 14, Code of Federal Regulations, are amended to read as follows:

PART 380—[AMENDED]

1. The authority citation for 14 CFR Part 380 is revised to read as follows:

Authority: Secs. 101(3), 102, 204, 401, 402, 403, 404, 407, 411, 416, and 1102 of the Federal Aviation Act of 1958, as amended; 49 U.S.C. 1301, 1302, 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1386, and 1502).

2. Section 380.30 is amended by revising paragraph (e) as follows:

§ 380.30 Solicitation materials.

* * * * *

(e) In any solicitation material from a direct air carrier, indirect air carrier, or an agent of either, for a charter, charter tour (i.e., a combination of air transportation and ground accommodations), or a charter tour component (e.g., a hotel stay), any price stated for such charter, tour, or component shall be the entire price to be paid by the participants to the air carrier, or agent, for such charter, tour, or component, except:

(1) One-way fares that are only available as part of a round-trip purchase may be advertised separately, provided that the advertisement indicate clearly that a round-trip purchase is required.

(2) U.S. and foreign departure taxes, security charges, customs fees, immigration fees, tourism surcharges, and any other surcharges that may be imposed by the Federal or a state, local, or foreign government may be stated separately in advertisements and promotional materials, provided they are levied on a per-passenger basis by the governmental entity and are remitted directly to the levying government, subject to the conditions in paragraph (e) (4) of this section.

(3) Any other carrier fee or surcharge that may be approved by the U.S. government for separate imposition on individual passengers may be stated separately in advertisements and promotional materials, subject to the conditions in paragraph (e) (4) of this section.

(4) All advertisements and promotional materials in which the charges described in paragraphs (e)(2) and (e) (3) of this section are stated separately must clearly and conspicuously state elsewhere in the advertisement the amount of such charges, the services they cover, and the

fact that they must be paid by the consumer in addition to the advertised price.

PART 399—[AMENDED]

3. The authority citation for Part 399 continues to read as follows:

Authority: 49 U.S.C. 1301, 1302, 1305, 1324, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1381, 1382, 1384, 1386, 1461, 1481, 1482, 1502 and 1504, unless otherwise noted.

4. Section 399.84 is revised to read as follows:

§ 399.84 Price advertising.

The Department considers any advertising or solicitation by a direct air carrier, indirect air carrier, or an agent of either, for passenger air transportation and ground accommodations), or a tour component (e.g., a hotel stay) that states a price for such air transportation, tour, or tour component to be an unfair or deceptive prictice, unelss the price stated is the entire price to be paid by the customer to the air carrier, or agent, for such air transportation, tour, or tour component, except:

(a) One-way fares that are available as part of a round-trip purchase may be advertised separately, provided that the advertisement indicate clearly that round-trip purchase is required.

(b) U.S. and foreign departure taxes, security charges, customs fees, immigration fees, tourism surcharges, and any other surcharges that may be imposed by the federal or a state, local, or foreign government may be stated separately in advertisements and promotional materials, provided they are levied on a per-passenger basis by the governmental entity and are remitted directly to the levying government, subject to the conditions in paragraph (d) of this section.

(c) Any other carrier fee or surcharge that may be approved by the U.S. government for separate imposition on individual passengers may be stated separately in advertisements and promotional materials, subject to the conditions in paragraph (d) of this section.

(d) All advertisements and promotional materials in which the charges described in paragraphs (c) and (d) of this section are stated separately must clearly and conspicuously state elsewhere in the advertisement the amount of such charges, the services they cover, and the fact that they must be paid by the consumer in addition to the advertised price.

Issued on: July 18, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-17201 Filed 7-25-89; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 89N-0106]

Shellac and Shellac Wax; Proposed Affirmation of GRAS Status with Specific Limitations as Direct Human Food Ingredients

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that shellac and shellac wax are generally recognized as safe (GRAS) with specific limitations, for use as direct human food ingredients. The safety of these ingredients has been evaluated under a comprehensive safety review conducted by the agency.

DATES: Comments by September 25, 1989.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of the scientific literature review of shellac and shellac wax and the report of the Select Committee on GRAS Substances are available for review at the Dockets Management Branch and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION:

I. Background

Shellac and shellac wax are resinous materials derived from the hardened secretion of the lac insect, species *Lucifer (Tachardia) lacca Kerr* (family *Coccidae*) (Ref. 1), also known as *Kerria lacca* (Kerr) (Ref. 2). India and Thailand are the primary sources of shellac (Ref. 3). Food-grade shellac is refined from the crude lac secretion by a process that may include sieving, water washing, multiple filtration, solvent refining, dissolution in mild soda solutions, bleaching with sodium hypochlorite solution, and decolorizing with activated carbon (Ref. 2).

The items of commerce are food-grade bleached shellac, bleached shellac (wax-free), orange shellac, orange shellac (wax-free), and bleached shellac wax (Refs. 2 and 11). The exact nomenclature applied to the final product generally reflects the extent of refining (Ref. 2).

Orange shellac is unbleached and is produced either by a process of filtration in the molten state or by a hot solvent process. It may retain most of its wax or be dewaxed.

Bleached shellac is obtained by dissolving the lac in aqueous sodium carbonate followed by bleaching with sodium hypochlorite. The bleached lac is either precipitated with a diluted sulfuric acid solution or passed through a filter press to remove the wax, and then precipitated with a dilute sulfuric acid solution. The precipitate forms an off-white amorphous shellac resin upon drying. Removal of the wax during processing results in bleached shellac (wax-free). Shellac wax, as noted above, is a bleached byproduct of the processing of bleached shellac (Ref. 4).

II. Regulatory History

The agency has issued numerous opinion letters stating that shellac is GRAS for use in candy coatings, resinous glaze coatings for food, and coatings on apples, avocados, and tomatoes and as a coating for metal foil that contacts food. One letter (Ref. 14) sanctioning the use of shellac in coating candy predates the 1958 Food Additives Amendment to the Federal Food, Drug, and Cosmetic Act (the act).

Shellac is regulated as a food additive for use as a component of adhesives used in food packaging under 21 CFR 175.105; as a component of resinous and polymeric coatings for food-contact surfaces under 21 CFR 175.300; as a component of paper and paperboard used in contact with aqueous and fatty foods under 21 CFR 175.170; and as a diluent in color additive mixtures for marking food supplements in tablet form, gum, and confectionery under 21 CFR 73.1(b)(1)(i).

III. Consumers' Exposure to Shellac and Shellac Wax in Food

In 1971 and 1975, the National Academy of Sciences/National Research Council (NAS/NRC) reported to FDA on its survey of a cross-section of food manufacturers on the use of GRAS ingredients. The surveys contained the entry "wax, shellac" but

no separate listing for shellac. In 1971, 14 companies reported the use of 209,000 pounds of material under the category "wax, shellac," and in 1975, 9 companies reported the use of 'wax, shellac" to be 227,000 pounds. The Select Committee on GRAS Substances (the Select Committee) noted in its report, however, that some evidence indcated that these poundage data reflect use of both shellac and shellac wax.

Other use data (Refs. 2 and 7) indicate that the amount of shellac wax used annually as a food ingredient is about 2,000 or 3,000 pounds, and that nearly all of the shellac wax is used as a polishing agency for chewing gum. Based on these data, the Select Committee estimated the per capita daily consumption of shellac wax to be 0.075 milligram (mg) (Ref. 2).

A representative of the shellac industry reported to the Select Committee that the approximate annual poundage of shellac used in the food industry is on the order of 200,000 pounds. About 80 percent of this quantity is used for coating citrus fruit and avocados and would not be ingested, leaving about 20 percent or about 40,000 pounds for use as a direct food ingredient, primarily in confections. From this report and the survey data, the Select Committee estimated the per capita daily intake of shellac to be 0.25 mg (Ref. 2).

The agency has estimated the average per capita daily disappearance of shellac based on updated poundage information from a shellac trade assocation (Ref. 8). The association advised FDA that between November 1, 1983, and October 31, 1984, 397,823 pounds of shellac were used directly in food. Based on this figure, the agency estimated the per capital daily disappearance for shellac to be 2.1 mg. The agency's estimate of the per capita disappearance (2.1 mg) of shellac is significantly higher than the combined per capita estimate for shellac and shellac wax that was reported in the Select Committee's report (0.32 mg).

The agency also estimated consumer exposure based on dietary survey and usage information (Refs. 5, 6, 7, and 13). On this basis, its exposure estimate for an average consumer of shellac-coated candies, cakes, fresh fruits, fresh vegetables, cones, and fruit cakes is 28 mg per person per day (mg/person/day) and for a 90th percentile consumer, 55 mg/person/day. However, the agency recognizes that the latter intake estimates are very conservative given the Select Committee's finding that 80 percent of the shellac used to coat fruits and vegetables is not ingested. If a correction is made for what is discarded on the peels of fruits and vegetables, then the estimated daily intake (EDI) of shellac from its current uses drops to about 10 mg/person/day. The agency has used this intake estimate, as well as the per capita disappearance estimate of shellac, in its evaluation of the safety of shellac and shellac wax as food ingredients.

IV. Opinion of the Select Committee on Shellac and Shellac Wax

Shellac and shellac wax were the subjects of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose-response, (8) reproducitive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 47 abstracts on shellac and shellac wax were reviewed, and 21 particularly pertinent reports from the literature survey were summarized in a scientific literature review.

Information from the scientific literature review and other available studies has been summarized in a report to FDA by the Select Committee, which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The Select Committee issued its final report on shellac and shellac wax in 1981. In the Select Committee's opinion:

Shellac is a polyester resin of animal origin. Shellac wax is a refined, bleached by-product of the processing of regular shellac. Shellac is currently used as a coating for certain fruits and vegetables and as a furface-finishing agent in a manner which might contribute to a per capita daily intake of about 0.25 mg. Shellac wax utilized as a polishing agent for chewing gum and as a stabilizer-thickening agent in cakes might provide a per capita daily intake of 75 μg.

The Select Committee acknowledges the long history of use of shellac in food coatings as well as the absence of reports attributing any adverse effects to such food applications. Nevertheless, there are few biological data regarding the effects of shellac and shellac wax on animal or man following oral ingestion. One preliminary report of a 90-day rat feeding study, while presenting no cause for concern, was technically incomplete and could not be judged as evidence of safety. Food-grade standards should be developed for shellac wax (Ref. 2, p. 10).

The Select Committee therefore concluded that:

> In view of the deficiency of relevant biological studies, the Select Committee has insufficient data upon which to base an evaluation of shellac and shellac wax when they are used as food ingredients.

Before the issuance of the Select Committee's final report, the agency published a notice in the **Federal Register** of April 25,1980 (45 FR 27992), announcing the Select Committee's tentative finding of insufficient data upon which to evaluate the safety of shellac and shellac wax and provided an opportunity for a public hearing. A public hearing was held but produced no new information. Accordingly, the Select Committee's final report affirmed its tentative conclusion.

V. FDA's Evaluation

FDA completed its review of all available information on shellac and shellac wax and agreed with the conclusion of the Select Committee. As a result of this conclusion, FDA toxicologists considered what additional information would be needed to assist the agency in determining the GRAS status of shellac and shellac wax, given the long history of use of shellac and shellac wax on food. FDA advised a representative of the American Bleached Shellac Manufacturers Association, Inc. (ABSMA), who had participated in the public hearing on the safety of shellac and shellac wax, on the minimum toxicology studies that would be needed to affirm the GRAS status of the use of these ingredients. Specifically, the agency advised that a 90-day feeding study of shellac in rats with in utero exposure and a mutagenicity test of shellac was in *Salmonella typhimurium* were needed to assure that shellac use in foods is safe. Subsequently, FDA dropped its request for a mutagenicity test because a new test using more sensitive organisms was submitted by ABSMA, and this test demonstrated that shellac was not mutagenic.

ABSMA submitted to FDA an unpublished report of the 90–day feeding study in rats (Ref. 9). In this study doses of 1,000, 3,000, and 10,000 parts per million (ppm) of shellac were administrated in the diets of Sprague-Dawley rats. The study showed an increase in some pancreatic leasions, described as mild, in male rats fed the high dose of 10,000 ppm shellac. The agency has determined that the no-effect level for shellac including the was is 3,000 ppm in the dies or 9 mg/person/day (Ref. 10).

As noted above, the Select Committee acknowledged tha. shellac and shellac

wax have a history of use in food before 1958 with no reports of adverse effects and are of natural biological origin. The agency searched the Adverse Reaction Monitoring System (ARMS) described in Ref. 16 to determine if it had received any reports of adverse effects from the Use of shellac and shellac wax. There were no such reports. The agency also conducted a computer search of the scientific literature from 1981 through 1989 for any adverse reaction reports. There were no reports of adverse reactions in the literature on shellac and shellac was (Ref. 17).

Consequently, shellac and shellac wax have had a long history of common use in food for certain technical effects without any apparent associated safety problems. Under 21 CFR 170.30(b), this history of use provides an appropriate basis for a determination that there is general recognition among qualified experts that shellac and shellac wax are safe for their current uses. Section 170.30(b) also provides that this determination can be made without the quantity or quality of scientific data required for approval of a food additive regulation.

Nonetheless, FDA has looked to the 90-day rat study for corroborative evidence of the safety of shellac and shellac wax. Based on this study, the agency has estimated that the acceptable daily intake (ADI) for shellac and shellac wax is 9 mg/person/day, which is comparable to the EDI (10 mg/person/day). Because the EDI for shellac and shellac wax does not significantly exceed the ADI, agency scientists are satisfied that current food uses of these substances are safe.

As provided for under 21 CFR 170.30(b), FDA has tentatively determined that the rat study, coupled with the history of safe use of these ingredients since before 1958, provides an adequate basis upon which to affirm these ingredients as GRAS under their current conditions of use. FDA is therefore proposing to affirm shellac and shellac wax as GRAS with specific limitations to current conditions of use. The limitations will ensure that the ADI and EDI will remain in balance. Any significant new uses of shellac and shellac wax will require that additional studies be performed to establish the safety of those uses (Ref. 12).

VI. The Listing Regulation

A. Nomenclature

ABSMA informed FDA that the term "shellac" is used by the industry to refer to bleached shellac, bleached shellac (wax-free), orange shellac, or orange shellac (wax-free), and that shellac wax is a separate item of commerce (Refs. 2 and 11). Based on this information, and on the fact that the Select Committee did not differentiate between the forms of shellac, either on the basis of their food uses or their safety, FDA has tentatively decided to cite the generic term "shellac" in the proposed regulation to include bleached shellac, bleached shellac (wax-free), orange shellac, and orange shellac (wax-free). The agency is proposing to include shellac wax under a separate regulation.

B. Food Uses

The agency identified the uses of shellac and shellac wax that are listed in the proposed regulations based on information from the NAS/NRC surveys (Refs. 5, 6, and 7), information from the shellac industry, opinion letters issued by the agency (Ref. 13), and information contained in the Select Committee's report on shellac and shellac wax (Ref. 2).

The agency notes that shellac was reported in the 1975 NAS/NRC survey for use on shelled nut products. However, it was not reported for that use in the subsequent survey or in the Select Committee's report (SCOGS 19–II). Because there were no subsequent reports of this use in the updated surveys, the agency has not included the use of shellac on nut products in this proposal. Persons interested in the use of shellac on nut products may have that use considered by submitting to the Dockets Management Branch (address above), as a comment on this proposal, appropriate published or unpublished safety data and use and exposure information.

In addition, the agency received a request for an advisory opinion on the use of shellac as a component of an ink for marking shell eggs. The agency has estimated the increase in exposure that would result from this use and has concluded that the exposure would be too small to constitute a significant toxicological concern (Ref. 15). (Shellac, as noted above, is currently approved for use in inks for marking food supplements in tablet form, gum, and confectionery in 21 CFR 73.1(b)(1)(i).)

The uses of shellac provided for in the proposed regulation are as a surface finishing agent in cakes, cones, and fruit cakes; confections and frostings; fresh vegetables; fresh fruits; and soft candy and as a color and color adjunct in inks for marking shell eggs. The uses of shellac wax provided for in the proposed regulation are as a surface finishing agent in chewing gum and as a stabilizer or thickener in cakes.

The proposed regulation sets forth the conditions of use (technical effects and food categories) for shellac and shellac wax that FDA evaluated and found to be safe. In addition, the indirect uses of shellac and shellac wax are authorized by § 184.1(a). FDA is not proposing to include limitations on the levels of use of shellac and shellac wax in the listed foods or food categories. The agency has tentatively concluded that the use of shellac and shellac wax in the listed foods or food categories is self-limiting because at higher levels, these ingredients no longer perform their intended technical effects, and that these self-limiting levels of use of shellac and shellac wax in the types of food in, and under the conditions for, which they are currently used will not significantly increase the total consumption of shellac and shellac wax.

C. Specifications

The Select Committee noted that the "Food Chemicals Codex" lists food-grade specifications for "shellac, bleached" and "shellac, bleached, wax-free" but not for shellac wax. It recommended the development of food-grade specifications for shellax wax. The agency also notes that there is a need to develop specifications for orange shellac and orange shellac (wax-free).

Therefore, the agency will work with the Committee on Food Chemicals Codex to develop appropriate specifications for orange shellac, orange shellac (wax-free), and shellac wax. When acceptable specifications are developed, the agency will incorporate them into the regulations. Until specifications are developed, FDA has determined that the public health will be adequately protected so long as orange shellac, orange shellac (wax-free), and shellac wax comply with the description in the proposed regulations and are of appropriate food-grade purity in accordance with 21 CFR 184.1(b) and 170.30(h)(1).

In the case of indirect uses of shellac and shellac wax, FDA believes that the general requirements of 21 CFR 186.1(a) that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(1) and used in accordance with current good manufacturing practice, are sufficient to ensure the safe use of these ingredients.

D. Conclusion

Based upon the Select Committee's evaluation of shellac and FDA's subsequent evaluation of all available

data, the agency tentatively concludes that:

1. The current uses of shellac and shellac wax are safe based upon the history of use of these substances of natural biological origin in food since before 1958 without any evidence of adverse effects from consumption of these ingredients and the 90-day study that was conducted after the Select Committee's final report.

2. The safety information is sufficient to support the limited use provided for in the regulation.

3. Shellac and shellac wax should be listed separately in the regulations because they are separate items of commerce.

4. The agency is working with Food Chemicals Codex to develop appropriate specifications for shellac.

Copies of the scientific literature review of shellac and shellac wax and the report of the Select Committee are available for review at the Dockets Management Branch (address above) and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order number	Price code	Price*
Shellac (scientific literature review)	PB-287-165/AS	A02	$6.00
Shellac wax (mutagenic evaluation)	PB-245-484/AS	A03	$7.50
Shellac and shellac wax (Select Committee Report)	PB-82-160383	A01	$6.00

* Price subject to change.

This proposed action does not affect the current use of shellac and shellac wax in pet food or animal feed.

VII. References

The following information has been placed on display in the Dockets Management Branch (address above) and may be reviewed by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Monograph on "Shellac, Bleached and Shellac, Bleached, Wax-Free," Committee on Codex Specifications, *Food Chemicals Codex*, 3d Ed., National Academy Press, Washington, DC, pp. 270–271, 1981.

2. "Evaluation of the Health Aspects of Shellac and Shellac Wax as Food Ingredients," Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, Bethesda, MD, 1981.

3. Monograph on "Shellac," Informatics, Inc., Rockville, MD, 1978.

4. Monographs on "Pharmaceutical Glaze and Shellac," *United States Pharmacopeia XX/The National Formulary XV:* supp. 2, 1981, Mack Publishing Co., pp. 210, 219, The United States Pharmacopeial Convention, Inc., Easton, PA.

5. Subcommittee on Review of the GRAS List—Phase II, 1972, "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," prepared under DHEW Contract No. FDA 70–22 with the Committee on Food Protection, Division of Biology and Agriculture, National Research Council, National Academy of Sciences, Washington, DC.

6. Memorandum of telephone conversation dated February 12, 1987, between R. Rehwoldt, National Academy of Sciences and J. W. Gordon, FDA.

7. Committee on GRAS List Survey—Phase III, 1979, "The 1977 Survey of Industry on the Use of Food Additives," prepared under DHEW Contract No. FDA 223–77–2025 with the Food and Nutrition Board, Division of Biological Sciences, National Research Council, National Academy of Sciences, Washington, DC.

8. Letter dated January 11, 1985, from P. R. Donovan, American Bleached Shellac Manufacturers Assocation, Inc., to J. W. Gordon, FDA.

9. "90-Day (in utero) Dietary Toxicity Study of Regular Bleached Shellac in Sprague-Dawley Rats, Final Report," Food and Drug Research Laboratories Inc., 1984, American Bleached Shellac Manufacturers Association.

10. Memorandum dated May 31, 1985, from M. J. Wade, FDA to J. W. Gordon, FDA.

11. Memoranda of telephone conversations dated December 2, 1986, August 24, 1987, and October 20, 1987, between P. R. Donovan, American Bleached Shellac Manufacturers Association and J. W. Gordon, FDA.

12. Memorandum dated June 17, 1988, from C. B. Johnson, FDA to J. W. Gordon, FDA.

13. Letter dated September 21, 1959, from Arthur A. Checchi, FDA to P. H. Groggins, Food Machinery and Chemical Corp.

14. Letter dated August 3, 1939, from W. G. Campbell to Wm. Howlett Gardner, Shellac Research Bureau, Polytechnic Institute of Brooklyn.

15. Memorandum dated June 22, 1988, from C. B. Johnson, FDA to C. J. Bailey, FDA.

16. Tollefson, L., "Monitoring Adverse Reactions to Food Additives in the U.S. Food and Drug Administration," *Regulatory Toxicology and Pharmacology*, 8:438–446, 1988.

17. Computer printout of the search of the scientific literature reports of adverse reports.

VIII. Economic and Environmental Assessment

The agency has determined under 21 CFR 25.24(b)(7) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive order 12291, FDA has carefully analyzed the economic effects of this proposal and has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

The agency's findings of no economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

IX. Prior Sanctions

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. Any

person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of their right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before September 25, 1989, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. to 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 184

Food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, it is proposed that Part 184 be amended as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

1. The authority citation for 21 CFR Part 184 continues to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10, 5.61.

2. New §§ 184.1705 and 184.1706 are added to Subpart B to read as follows:

§ 184.1705 Shellac.

(a) Shellac (CAS Reg. No. 9000–59–3) is a resinous material derived from the hardened secretion of the lac insect, species *Lucifer* (Tachardia) *lacca Kerr* (family *Coccidae*), also known as *Kerria lacca* (Kerr). The extent of refining of the crude lac secretion defines the food-grade product as bleached shellac; bleached shellac, wax-free; orange shellac; or orange shellac, wax-free.

(b) The ingredient meets the specifications for shellac, bleached, or shellac, bleached, wax-free of the "Food Chemicals Codex", 3d Ed. (1981), pp. 270–271, which is incorporated by reference in accordance with 5 U.S.C. 552(a). Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC. For orange shellac and orange shellac, wax-free, the Food and Drug Administration is developing food-grade specifications in cooperation with the National Academy of Sciences. In the interim, orange shellac and orange shellac, wax-free must be of a purity suitable for their intended use.

(c) In accordance with § 184.1(b)(2), the ingredient is used in food only within the following limitations:

Category of food	Functional use
Cakes, cones, and fruitcakes.	Surface-finishing agent, § 170.3(o)(30) of this chapter.
Chewing gum, § 170.3(n)(6) of this chapter.	Do.
Confections and frosting, § 170.3(n)(9) of this chapter.	Do.
Shell eggs, § 170.3(n)(14) of this chapter.	Color and coloring adjunct, § 170.3(o)(4) of this chapter.
Fresh fruits, § 170.3(n)(16) of this chapter.	Surface-finishing agent, § 170.3(o)(30) of this chapter.
Fresh vegetables, § 170.3(n)(19) of this chapter.	Do.
Soft candy, § 170.3(n)(38) of this chapter.	Do.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1706 Shellac wax.

(a) Shellac wax (CAS Reg. No. 97766–50–2) is obtained as the refined, bleached byproduct of the primary processing of shellac (§ 184.1705).

(b) The Food and Drug Administration is developing food-grade specifications for shellac wax in cooperation with the National Academy of Sciences. In the interim, the ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(2), the ingredient is used in food only within the following limitations:

Category of food	Functional use
Cakes	Stabilizer, thickener, § 170.3(o)(28) of this chapter.
Chewing gum, § 170.3(n)(6) of this chapter.	Surface-finishing agent, § 170.3(o)(30) of this chapter.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Dated: July 18, 1989.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89–17390 Filed 7–25–89; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD11–89–14]

Anchorage Ground; Long Beach Harbor, CA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to redefine Commercial Anchorage D in Long Beach Harbor. In 1988, the Port of Long Beach began construction on the Pier J Expansion Project which will ultimately lead to the creation of 147 acres of new landfill. This new land will be situated in the present northwest end of Commercial Anchorage D. This proposed regulation will redefine Commercial Anchorage D to reflect the changes imposed by the Pier J Expansion Project.

DATES: Comments must be received on or before September 11, 1989.

ADDRESSES: Comments should be mailed to Commander (oan), Eleventh Coast Guard District, 400 Oceangate, Suite 702, Long Beach, CA 90822–5399. The comments and other materials referenced in this notice will be available for inspection and copying at the above address. Normal office hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG Mike Lodge, telephone (213) 499–5419.

SUPPLEMENTARY INFORMATION: Interested persons are invited to

participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD11–89–14) and the specific section of the proposal to which their comments apply, and give reasons for each comment.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information: The drafters of this notice are LTJG Mike Lodge, Project Officer, and LCDR J.J. Jaskot, Project Attorney, Eleventh Coast Guard District Legal Office.

Discussion of Proposed Regulations: In September 1988, construction began on the Pier J Expansion Project in the Port of Long Beach, CA. The project involves extensive dredging and landfill activities which will ultimately lead to the creation of 147 acres of new land and elimination of anchorage D–1 as depicted on NOS Charts 18749 and 18751, located on the western end of Commercial Anchorage D. Consultation is planned with Jacobsen Pilot Service, Long Beach, CA and the Port of Long Beach Harbor Department. This regulation is issued pursuant to 33 U.S.C 471 as set out in the authority citation for all of Part 110.

Economic Assessment and Certification: These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The re-configuration of Commercial Anchorage D will only reduce the total number of available commercial anchorages in Long Beach from 11 to 10. This number is suitable for present port needs.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment: This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the temporary rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations: In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Sec. 110.1a and each section listed in 110.1a is also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.214 is amended by revising paragraph (a)(4) to read as follows:

§ 110.214 Los Angeles and Long Beach Harbors, California.

(a) The anchorage grounds.

* * * * *

(4) Commercial Anchorage D (Long Beach Harbor). The waters bounded by a line connecting the following points:

Latitude	Longitude
33°43'23.5"N	118°10'46.9"W
33°43'58.5"N	118°11'04.0"W
33°44'18.6"N	118°11'06.7"W
33°44'25.2"N	118°09'46.0"W
33°43'23.5"N	118°09'46.4"W

and thence to the point of begining.

(i) In this anchorage the requirements of commercial ships over 244m (approximately 800 ft.) shall predominate.

(ii) Bunkering and lightering operations are permitted in this anchorage.

Note: A portion of this anchorage is within the Explosives Anchorage Area, when the explosive anchorage is activated by the Captain of the Port. See § 110.214(a)(17).

* * * * *

Dated: June 23, 1989.

Terry Lucas,

Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District, Acting.

[FR Doc. 89–17417 Filed 7–25–89; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[OGD1–89–077]

Drawbridge Operation Regulations; Kennebec River, Maine

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule and public hearing on proposed regulations.

SUMMARY: At the request of the Maine Department of Transportation (Maine DOT), the Coast Guard is considered a change to the regulations governing the Carlton drawbridge over Kenebec River, at mile 14.0 between Bath and Woolwich, Maine, to extend the closure period for the evening rush hour 45 minutes and to limit the openings for recreational vessels between 6 a.m. and 6 p.m. to twice a day at 10 a.m. and 2 p.m. commencing June 1, through September 30. This proposal is being made because of the reported extended periods of peak vehicular traffic. This action should accommodate the needs of vehicular traffic, while providing for the reasonable needs of navigation.

The Commander, First Coast Guard District, has authorized a public hearing to be held to receive comments on a proposed regulation governing the operation of the Carlton bridge across the Kennebec River, mile 14.0, between Bath and Woolwich, Maine. The hearing is being held to gather information and data necessary to attempt to resolve differences between various factions who support or oppose the proposed regulation.

DATES: (a) The hearing will be held on August 24, 1989 commencing at 4 p.m., with an evening meal break.

(b) Written comments on the proposed rule may be submitted on or before September 30, 1989.

ADDRESSES: (a) The hearing will be held in City Hall Auditorium (1st floor) 55 Front St., Bath, Maine.

(b) Written comments should be mailed to Commander (odr), First Coast Guard District, Building 135A, Governors Island, New York, N.Y. 10004–5073. The comments and other materials referenced in this notice will be available for inspection and copying at this address. Normal office hours are between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668–7170.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The hearing will be informal. A Coast Guard representative will preside at the heaing, make a brief opening statement describing the proposed regulation, and announce the procedure to be followed at the hearing. Each person who wishes to make an oral statement should notify the Contact Officer listed above by August 18, 1989. Such notification should include the approximate time required to make presentation.

A transcript will be made of the hearing and may be purchased by the public. Interested persons who are unable to attend this hearing may also participate in the consideration of this proposed regulation by submitting their comments in writing. Each comment should state reasons for support or opposition, suggest any proposed changes to the regulation, and include the name and address of the person or organization submitting the comment. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope. All comments received will be considered before final action is taken on the proposed regulation. The proposed regulation may be changed in light of comments received. After the time set for the submission of comments, the Commander, First Coast Guard District will determine a final course of action. If significant differences still remain, the district commander will forward the record, including all written comments and his recommendations, to the Commandant, United States Coast Guard, and final action.

Drafting Information

The drafters of these regulations are Waverly W. Gregory, Jr., Project Officer, and Lieutenant Robert E. Korroch, Project Attorney.

Discussion of Proposed Regulations

On August 2, 1988, the Coast Guard published a final temporary rule to limit the bridge openings within 30 minutes of each other and to extend the evening rush hour forty-five minutes for 60 days commencing 8 August through October 6, 1988. The Commander, First Coast Guard District published the proposal as a Public Notice 1–669 dated August 8, 1988. Implementation of the first temporary regulation was conducted after the peak of the boating season which did not permit a complete evaluation of the situation. Statistics provided by Maine DOT indicated that the first temporary regulation did not significantly improve the traffic problem. As a result, the State and local officials requested that temporary regulations for the 1989 boating season be promulgated and evaluated to determine if the changes will substantially improve vehicular traffic without restricting marine traffic. Temporary rules were issed under 33 CFR 117.43 for the periods June 1,—July 30, 1989 and July 28—September 31, 1989 and published in Public Notices 1–690 and 1–693, respectively.

Economic Assessment and Certification

These proposed temporary regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The intent of this temporary regulation is to collect information to assess how the regulations would accommodate vehicular traffic to and from Bath Iron Works and local parks in the summer when tourist traffice is at its peak.

The draw will continue to open on signal for inbound commercial fishing vessels. Since the economic impact of this proposal is expected to be minimal the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Federalism Implication Assessment

This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a Federal assessment.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.525(a) is revised to read as follows:

§ 117.525 Kennebec River.

(a) The draw of the Carlton highway-railroad bridge, mile 14.0 between Bath and Woolwich shall open as follows:

(1) On signal as soon as possible at all times for vessels owned or operated by the United States Government, State and local vessels used for public safety, vessels in distress, and inbound loaded commercial fishing vessels.

(2) Year-round the draw need not open from 6:30 a.m. to 7:30 a.m. and from 3:45 p.m. to 5:30 p.m., Monday to Friday excluding holidays except for vessels noted in paragraph (a)(1) of this section.

(3) From June 1 through September 30:

(i) On signal at all times for commercial vessels except as noted in paragraph (a)(2) of this section;

(ii) For recreational vessels on signal except that from 6 a.m. to 6 p.m. openings only at 10 a.m. and 2 p.m.

(4) From April 15 through May 31 and October 1 through November 15, open on signal:

(i) From 3 a.m. to 7 p.m., except as noted in paragraph (a)(2) of this section;

(ii) From 7 p.m. to 3 a.m. if four hours notice is given.

(5) From February 15 through April 14 and November 16 through December 15, at all times on signal, except as noted in paragraph (a)(2) of this section; if at least 4 hours notice is given.

(6) From December 16 through February 14 open on signal, except as noted in paragraph (a)(2), of this section, if 24 hours notice is given.

* * * * *

Dated: July 19, 1989.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 89–17458 Filed 7–25–89; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–322, RM–6641]

Radio Broadcasting Services; Tuscaloosa, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of Radio South, Inc. ("RSI"), licensee of Station WTUG(FM), Tuscaloosa, Alabama, seeking the substitution of Channel 225C1 for Channel 225C2 and

modification of the license accordingly. Coordinates used for Channel 225C1 at Tuscaloosa are 33–03–36 and 87–32–43. (See Supplementary Information, *infra.*).

DATES: Comments must be filed on or before September 11, 1989, and reply comments on or before September 26, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Erwin G. Krasnow, Esq., Verner, Liipfert, Bernhard, McPherson & Hand, 901—15th Street, NW., Suite 700, Wash., DC 20005–2301.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–322, adopted June 30, 1989, and released July 20, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Although RSI currently operates Station WTUG(FM) on Channel 224A at Tuscaloosa, its license was modified by *Report and Order* in MM Docket No. 87–451, 3 FCC Rcd 6849 (1988), to specify operation on Channel 225C2. An application for a construction permit was subsequently filed by RSI specifying Channel 225C2 (BPH–890113IF).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

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47 CFR Part 73

[MM Docket No. 89–320, RM–6752]

Radio Broadcasting Services; Blackduck, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Roger Paskvan, permittee of Channel 252A, Blackduck, Minnesota, proposing the substitution of Channel 252C2 for Channel 252A, and modification of the permit to specify operation on Channel 252C2. Canadian concurrence will be sought for the allotment of Channel 252C2 at Blackduck at coordinates 47–33–21 and 94–47–59.

DATES: Comments must be filed on or before September 11, 1989, and reply comments on or before September 26, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Harry P. Cole, Bechtel, Borsari, Cole & Paxson, 2101 L Street, NW., Suite 502, Washington, DC 20037 (Counsel for Roger Paskvan).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–320, adopted June 30, 1989, and released July 20, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 320), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is not long subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–17398 Filed 7–25–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–321, RM–6699]

Radio Broadcasting Services; Rochester and Winona, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Rochester Communications Corporation, proposing the substitution of FM Channel 269C2 for Channel 269A at Rochester, Minnesota, and modification of its license for Station KRCH to specify operation on the higher class channel. To accommodate Channel 269C2 at Rochester, Channel 266A must be substituted for vacant Channel 268A at Winona, Minnesota. The coordinates for Channel 269C2 at Rochester are 44–04–13 and 92–28–38. The coordinates for Winona, which include a site restriction 10.3 kilometers (6.4 miles) east, are 44–04–09 and 91–30–54.

DATES: Comments must be filed on or before September 11, 1989, and reply comments on or before September 26, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jerrold Miller, Miller & Fields, P.C., P.O. Box 3303, Washington, DC 20033 (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No.

89-321, adopted June 30, 1989, and released July 20, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's Copy contractors, International Transcription Servcie, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-17399 Filed 7-25-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 640

RIN 0648-AC29

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic

AGENCY: National Marine Fisheries Service, (NMFS), NOAA, Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NOAA announces that the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) have submitted Amendment 2 to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic for Secretarial review and are requesting comments from the public.

DATE: Comments will accepted on or before September 22, 1989.

ADDRESSES: Copies of the amendment are available from the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, Florida 33609-2486.

Comments should be sent to Michael E. Justen, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702. Mark envelopes, "Comments on Amendment 2."

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813-893-3722.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act), as amended, requires that a Council-prepared fishery management plan or amendment be submitted to the Secretary of Commerce (Secretary) for review and approval or disapproval. The Magnuson Act also requires that the Secretary upon receipt, immediately publish a notice that the document is available for public review and comment. The Secretary will consider these comments in determining approvability of the document.

Amendment 2 would establish a regulatory amendment procedure for the future implementation of specified types of gear and harvest restrictions applicable to the fishery in the Exclusive Economic Zone. The intent of this amendment is to provide for more timely implementation of rules governing conduct of the spiny lobster fishery, improve cooperative efforts between state and federal management agencies, reduce federal management costs, and improve the effectiveness of rules, all of which should result in increased production from the resource. The habitat section has been updated.

Regulations proposed by the Councils to implement Amendment 2 are scheduled for publication within 15 days.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 21, 1989.

Joe P. Clem,

Acting Director of Office Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-17496 Filed 7-21-89; 2:07 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 54, No. 142
Wednesday, July 26, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Noranda's Montana Project, Silver/Copper Mine, Kootenai National Forest, Lincoln County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service, Kootenai National Forest (KNF), in conjunction with Montana's Department of State Lands (DSL) and Department of Natural Resources and Conservation (DNRC), will prepare an environmental impact statement (EIS) for a proposal to permit the development of Noranda's Montana silver/copper mine project and associated power transmission line approximately 18 miles south of Libby, Montana. Noranda's proposed plan of operation was submitted March 7, 1989 pursuant to Forest Service locatable mineral regulations 36 CFR Part 228, Chapter II, Subpart A, and State of Montana Metal Mine Reclamation Act Title 82, Chapter 4, Part 3, MCA. On June 27, 1989, Noranda submitted a transmission line application to the KNF and DNRC pursuant to the 36 CFR 251.50 and Montana Major Facility Siting Act, Title 75, Chapter 20, MCA.

DATE: Comments concerning the scope of the analysis should be received in writing by August 18, 1989 so they may be considered in the Draft Environmental Impact Statement.

ADDRESSES: Send written comments concerning the analysis to James F. Rathbun, Forest Supervisor, Kootenai National Forest, Supervisor's Office, 506 U.S. Hwy. 2 West, Libby, Montana 59923.

FOR FURTHER INFORMATION CONTACT: Ron Erickson, PROJECT Coordinator, Kootenai National Forest, telephone (406) 293–6211.

SUPPLEMENTARY INFORMATION: Noranda holds mineral rights within the Cabinet Mountain Wilderness. On March 7, 1989, Noranda submitted to the KNF and DSL an "Application for a Hard Rock Operating Permit & Proposed Plan of Operation" for the Montana Project. On June 27, 1989, Noranda also submitted an "Application for an Electric Transmission Line" to the KNF and DNRC for 230 kilovolt electric transmission line from Pleasant Valley up the Miller Creek drainage to the project site. Although the ore body itself is located beneath the Cabinet Mountains Wilderness, all surface disturbances such as facilities, access roads and tailings disposal impoundment would be located outside the wilderness.

The Montana Project, as proposed by Noranda, would consist of a 20,000 ton-per-day underground mine and a surface mill located in the Ramsey Creek drainage. Noranda has estimated the size of the ore body to be about 140 million tons. Access to the ore would be from two portals located adjacent to the wilderness in Ramsey Creek. Three additional ventilation portals would be used in the project—one in the upper Libby Creek and two in upper Rock Creek. Ore would be crushed underground and conveyed out of the mine to a mill near the Ramsey Creek portals. Copper and silver sulfides would be removed from the ore by flotation processing. Tailings from the milling process would be conveyed through a pipeline to the tailings disposal impoundment about four miles from the mill in the Little Cherry Creek drainage.

Access to the mine and all surface facilities would be from State Highway 2 and existing Bear Creek road. Noranda would need to upgrade about 11 miles of the Bear Creek road to standards specified by the agencies. Concentrate from the mill would be shipped by truck to Libby and then by train to a smelter.

Following a 3 year construction period, the mine would be expected to operate for a period of 16 years. Following construction of the mill and development of the underground mine, the mine/mill would operate on a 3 shift per day, 7 days per week basis. Assuming 350 production days yearly, 7 million tons of ore annually would be produced. Full production employment is estimated to be 450 people with an estimated annual payroll of $12.5 million.

Approximately 1,159 acres of land surface would be disturbed. All disturbed areas would be outside wilderness. Noranda has developed a reclamation plan to rehabilitate all disturbed areas following construction, operation and mine closure.

Governmental agencies and the public who may be interested in or affected by the proposal are invited to participate in the scoping process. The scoping process is designed to obtain input to identify potential issues related to the proposed project. The Forest Service, in conjunction with the State agencies, will hold a public scoping meeting on Wednesday, August 9, 1989 at the Memorial Gym in Libby, Montana at 7:00 p.m. A scoping document is available upon request.

The EIS will consider a range of alternatives based on the issues, concerns, and opportunities associated with the project. A preliminary identification of issues, concerns, and opportunities are:

—What effect would the proposed project have on the Cabinet Mountains Wilderness?
—How would the project affect wildlife, especially grizzly bears?
—How would the quantity and quality of water in the project area be affected?
—How stable is the proposed tailings impoundment and to what degree would it be reclaimed following mine closure?
—What would be the social and economic effects to the local communities?
—Coupled with the proposed ASARCO Rock Creek mine project and other foreseeable developments, what cumulative effects would occur in the project area?

Two of these alternatives will be the no action alternative and the alternative to approve the project as proposed. Other alternatives may consist of modifications or changes in the various elements comprising the proposal.

The analysis process will ultimately lead to one of the following possible decisions; (1) approval of the plan of operations and application, (2) approval of the plan of operations and application

with changes incorporated, (3) approval of the plan of operations and application subject to stipulations, or (4) disapproval of the plan of operations and application.

The estimated date for issuance of the draft environmental impact statement is February, 1990. A public meeting will be held in conjunction with the issuance of the draft environmental impact statement. The final environmental impact statement is expected to be available in June 1990.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviwer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmenal Policy Act at 40 CFR 1503.3 in addressing these points.)

James F. Rathbun,

Forest Supervisor, Kootenai National Forest.

Date: July 14, 1989.

[FR Doc. 89-17301 Filed 7-25-89; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Snapping Shoals Electric Membership Corp.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration.

ACTION: Finding of no significant impact relating to the construction of the Western Operations Center in Henry County, Georgia.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and REA Environmental Policies and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact (FONSI) with respect to the construction of the Western Operations Center in Henry County, Georgia. Snapping Shoals Electric Membership Corporation (EMC) has requested REA's approval to construct the project.

FOR FURTHER INFORMATION CONTACT: Alex M. Cockey, Jr., Director, Southeast Area—Electric, Room 0270, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382-8436.

SUPPLEMENTARY INFORMATION: REA, in accordance with its environmental policies and procedures, required that Snapping Shoals EMC develop a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed Western Operations Center. The BER, which includes input from certain local, state and Federal agencies, is the basis for REA's Environmental Assessment (EA). REA has concluded that the BER represents an accurate assessment of the environmental impacts of the project. The project will allow Snapping Shoals EMC to expand its office, storage and maintenance facilities to meet the needs of its growing service area.

The Western Operations Center includes an operations building, warehouse and storage dock, an apparatus and garage building with a storage dock, a truck, trailer, and equipment building, a covered vehicle fuel storage island, storage rigs, pole racks and parking spaces. Thirty acres of land have been zoned commercial by the Henry County government to accommodate the facilities.

REA has concluded that the proposed project will have no impact on wetlands, floodplains, threatened or endangered species or critical habitat, property listed or eligible for listing in the National Register of Historic Places, and water quality. The operations center will directly convert 22 acres of land that is considered prime farmland. Other sites for the facilities were considered. No practicable alternative was found.

Alternatives examined for the proposed project were no action and alternative sites. REA determined that there is demonstrated need for the project and constructing it at the preferred site will have no significant impact to the environment. Therefore, REA has concluded that its approval to allow Snapping Shoals EMC to construct the proposed project does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, REA has reached a FONSI with respect to the Western Operations Center.

Copies of the EA and FONSI can be obtained from REA at the address provided herein or at the office of Snapping Shoals Electric Membership Corporation, P.O. Box 509, Covington, Georgia 30209-0509.

In accordance with REA Environmental Policies and Procedures, 7 CFR Part 1794, Snapping Shoals EMC published a notice and advertisement in the *Henry County Herald* which has a general circulation in Henry County, Georgia. the notice appeared in the May 24, 1989, issue. The notice described the project, announced the availability of the BER and gave information where the BER could be obtained for review and where comments could be sent. The advertisement appeared in the same issue of the newspaper and briefly described the project and referred the reader to the legal notice. The public was given at least 30 days to respond to the notice. No responses to the notice were received by Snapping Shoals EMC or REA.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.850—Rural Electrification Loans and Loan Guarantees.

Date: July 14, 1989.

John H. Arnesen,

Assistant Administrator—Electric.

[FR Doc. 89-17412 Filed 7-25-89; 8:45 am]

BILLING CODE 3410-15-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board (ATBCB).

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled an ATBCB business meeting to take place from 9:30 a.m. to 11:30 a.m. and a public forum from 1:00 p.m. to 5:00 p.m. on Wednesday, August 9, 1989, Red Lion Inn Lloyd Center, Portland, Oregon.

DATE: Wednesday, August 9, 1989—9:30 a.m. to 11:30 a.m. (Business Meeting); 1:00 p.m. to 5:00 p.m. (Public Forum).

Matters to be Considered: Portions Open to the Public

Priorities for FY 1990 technical program projects; update on Americans With Disabilities Act (ADA); Fiscal Year 1989, 1990 and 1991 budget update; complaint status report; status report on Disabled In Action (DIA) litigation; status report/update on Air Carriers Act regulation and Exit Row Seating regulations; report on Board member liability and indemnification; proposed amendments to the Architectural Barriers Act (ABA); Board policy regarding accessible meeting sites; financial disclosure reports and procurement integrity certifications—agency liaisons and consolidating responsibility for ethics and procurement integrity matters under the Office of the General Counsel; and approval of the November 1989 Board meeting agenda. The Board will also hold its annual election of Executive Committee members, which is carried over from the May meeting.

The ATBCB will hold a public forum from 1:00 to 5:00 p.m. Public participation is invited to discuss issues relevant to the Architectural Barriers Act and the ATBCB. Individuals or organizations interested in testifying must contact Larry Allison, Special Assistant for External Affairs, (202) 653–7834.

Portions(s) Closed to the Public

Priorities for FY 1990 technical programs (funding); and FY 1989 contingency projects (funding).

ADDRESS: Red Lion Inn Lloyd Center, 1000 N.E. Multnomah, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: For information regarding committees and the business portion of the Board meeting, contact Barbara A. Gilley, Executive Officer, (202) 653–7834 (voice or TDD). For information regarding public forum portion, contact Larry Allison on (202) 653–7834 (voice or TDD).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) will provide a briefing on and a tour of the Bonneville Power and Administration Headquarters Building on Tuesday, August 8, 1989, from 8:30 a.m. to 11:15 a.m. the presentation will be held at the Red Lion Inn Lloyd Center and the tour conducted at the Bonneville Power and Administration Headquarters Building, Portland, Oregon. The Ad Hoc Committee on Communication Barriers, the Ad Hoc Committee on Public Affairs, will meet from 8:15 a.m. to 9:15 a.m. on Wednesday, August 9, 1989. All committee meetings will be held at the Red Lion Inn Lloyd Center, Portland, Oregon. The Technical Programs, the Planning and Budget, and the Executive Committees of the ATBCB will meet on Tuesday, August 8, 1989, from 1:00 p.m. to 6:00 p.m..

Lawrence W. Roffee,

Executive Director.

[FR Doc. 89–17423 Filed 7–25–89; 8:45 am]

BILLING CODE 6820-BP-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration.

Title: Special Adjustment Assistance Application.

Form Number: Agency Form ED–540; OMB–0610–0058.

Type of Request: Extension of the expiration date.

Burden: 75 respondents; 406 hours.

Average Hours per Response: 5 hours 25 minutes.

Needs and Uses: To gain necessary information and assurances for the selection and award of Special Adjustment Assistance Grants.

Affected Public: State and local units of government, Indian Tribes, public authorities and nonprofit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Donald Arbuckle, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Donald Arbuckle, the OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: July 20, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89–17400 Filed 7–25–89; 8:45 am]

BILLING CODE 3510-CW-M

National Oceanic and Atmospheric Administration

Marine Mammals; Denial of Permit; Sealand of Cape Cod, Inc.

On April 3, 1989, notice was published in the **Federal Register** (54 FR 13408) that an application had been filed by Sealand of Cape Cod, Inc., Route 6A, West Brewster, Massachusetts 02631, for a permit to capture and maintain for public display four Atlantic bottlenose dolphins (*Tursiops truncatus*).

Notice is hereby given that on July 18, 1989, under the authority of the Marine Mammal Protection Act of 1972, as amended, (16 U.S.C. 1361 *et seq.*), and after having considered all pertinent information and facts, the National Marine Fisheries Service denied the above referenced permit application.

Documents submitted in connection with the application are available for inspection in the Office of Protected Resources and Habitat Programs, Room 7324, 1335 East-West Highway, Silver Spring, Maryland 20910. For further information contact Georgia Cranmore at 301-427-2289.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

Date: July 18, 1989.

[FR Doc. 89–17419 Filed 7–25–89; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

July 19, 1989.

The inventions listed below are owned by agencies of the U.S.

Government and are available for licensing in the United States in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Licensing information and copies of patent applications bearing serial numbers with prefix E may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151. All other patent applications may be purchased, specifying the serial number listed below, by writing NTIS, 5285 Port Royal Road, Springfield, Virginia 22161 or by telephoning the NTIS Sales Desk at (703) 487–4650. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

Please cite the number and title of inventions of interest.

Stephen Gates,

Associate Director, Center for the Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 7–305,144
Process for the Preparation of Ketones and Novel Insecticides Produced Therefrom
SN 7–327,064
Diagnostic and Epidemiological Nucleic Acid Probe for Bovine Leptospirosis
SN 7–327,065
Transcription Terminators for Use with Strong Promoters of Bacteriophage RNA Polymerases
SN 7–338,680
Control of Hemp Sesbania with a Fungal Pathogen
SN 7–349,669
Method to Preselect the Sex of Offspring
SN 7–350,356
Plant Transformation by Gene Transfer into Pollen
SN 7–351,347
Monoclonal Antibodies Which Discriminate Between Strains of Citrus Tristeza Virus
SN 7–353,363
Nominine, An Insecticide Fungal Metabolite
SN 7–354,326
Peptides Stimulating Sex Pheromone Production and Melanization in Moths
SN 7–362,635
Introduction of Bacteria *In Ovo*
SN 7–362,992
Composition and Method for Increasing the Hatchability of Turkey Eggs

Department of Health and Human Services

SN 7–236,225
Immunotoxins
SN 7–349,772
Plaque Inhibiting Oligosaccharide
SN 7–352,313
Compositions Having Use as Treatment of Psoriasis and Neurosychiatric Deficits
SN 7–355,744
Therapeutic Application of an Anti-invasion Compound
SN 7–365,567
Gene Therapy
SN 7–368,725
Epithelial Cell Line Expressing a Cystic Fibrosis Phenotype

Department of the Army

SN 7–353,576
Saw Slanted Array Correlator (SAC) with Separate Amplitude Compensation Channel
SN 7–351,131
Thin Film All Polymer Capacitor and Method of Making

Department of the Interior

SN 7–068,083 (4,824,656)
Method of Recovering Sulfur from Solid Catalysts
SN 7–111,246 (4,815,791)
Bedded Mineral Extraction Process
SN 7–327,930
Pyramid Beam Splitter
SN 7–336,168
Bubble Injected Hydrocyclone Flotation Cell
SN 7–340,119
Laser Goniometer
SN 7–349,736
Directional Harmonic Overcurrent Relay Device
SN 7–351,134
Improvement to Universal Ripper Miner

[FR Doc. 89–17442 Filed 7–25–89; 8:45 am]
BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

July 21, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 28, 1989.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–6828. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories in Group I are being increased for carryover and recrediting carryforward not used.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 50276, published on December 14, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 21, 1989.

Commissioner of Customs
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel the directive issued to you on December 6, 1988, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textile and textile products, produced or manufactured in the people's Republic of China and exported during the twelve-month period which begin on January 1, 1989 and extends through December 31, 1989.

Effective on July 28, 1989, the directive of December 6, 1988 is amended further to adjust the limits for the following categories, as provided under the provisions of the

current bilateral textile agreement between the Governments of the United States and the People's Republic of China:

Category	Adjusted twelve-month limit [1]
200	538,911 kilograms
218	9,644,027 square meters
219	1,945,295 square meters
237	1,422,403 dozen
300/301	3,319,616 kilograms
314	41,011,092 square meters
315	146,511,727 square meters
317/326	16,226,105 square meters of which not more than 3,104,374 square meters shall be in Category 326
333	71,757 dozen
336	136,578 dozen
340	749,204 dozen of which not more than 374,602 dozen shall be in Category 340-Z [2]
341	587,194 dozen of which not more than 352,316 dozen shall be in Category 431-Y [3]
342	231,989 dozen
345	111,384 dozen
351	393,067 dozen
[4] 359-C	446, 083 kilograms
[5] 359-V	710,051 kilograms
360	6,130,199 numbers of which not more than 4,099,400 numbers shall be in Category 360-P [6]
363	25,864,650 numbers
[7] 369-D	4,058,490 kilograms
[8] 369-H	4,038,828 kilograms
[9] 369-L	2,429,257 kilograms
410	1,882,112 square meters of which not more than 1,501,593 square meters shall be in Category 410-A [10] and not more than 1,508,715 square meters shall be in Category 410-B [11]
433	22,149 dozen
434	12,620 dozen
435	23,180 dozen
436	14,423 dozen
438	25,240 dozen
440	36,057 dozen of which not more than 20,604 dozen shall be in Cateogory 440-M [12]
442	40,178 dozen
444	192,977 numbers
448	20,604 dozen
607	2,620,993 kilograms
613	6,149,048 square meters
614	9,662,789 square meters
615	19,896,562 square meters
617	14,054,967 square meters
631	928,211 dozen pairs
635	504,991 dozen
636	429,216 dozen
638/639	2,184,840 dozen
640	1,300,214 dozen
642	271,830 dozen
645/646	754,851 dozen
649	720,283 dozen
652	2,065,378 dozen
[13] 659-C	342,256 kilograms
[14] 659-S	510,391 kilograms
[15] 669-P	1,456,559 kilograms
831	403,455 dozen pairs
833	21,854 dozen
835	100,873 dozen
842	218,530 dozen
845	2,201,976 dozen
846	147,084 dozen

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

[2] In Category 340-Z, only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2050 and 6205.20.2060.

[3] In Category 341-Y, only HTS numbers 6204.22.3060, 6206.30.3010 and 6206.30.3030.

[4] In Category 359-C, only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.

[5] In Category 359-V, only HTS numbers 6103.19.2030, 6103.19.4030, 6104.12.0040, 6104.19.2040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.0044, 6110.90.0046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.4030, 6204.12.0040, 6204.19.3040, 6211.32.0070 and 6211.42.0070.

[6] In Category 360-P, only HTS numbers 6302.21.1010, 6302.21.1020, 6302.21.2010, 6302.21.2020, 6302.31.1010, 6302.31.1020, 6302.31.2010 and 6302.31.2020.

[7] In Categry 369-D, only HTS numbers 6302.60.0010 and 6302.91.0020

[8] In Category 369-H, only HTS numbers 4202.22.4020, 4202.22.4500 and 4202.22.8030.

[9] In Category 369-L, only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6000.

[10] In Category 410-A (carded wool), only HTS numbers 5111.11.1000, 5111.11.6030, 5111.11.6060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.6000, 5111.30.6000, 5111.90.3000, 5111.90.6000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 4212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510, and 6301.20.0020.

[11] In Category 410-B (combed wool), only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.0030, 5112.11.0060, 5112.19.6010, 5112.19.6020, 5112.19.6030, 5112.19.6040, 5112.19.6050, 5112.19.6060, 5112.20.0000, 5112.30.0000, 5119.90.3000, 5112.90.6010, 5112.90.6090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520, and 5516.34.0520.

[12] In Category 440-M, only HTS numbers 6203.21.0030, 6203.23.0030, 6205.10.1000, 6205.10.2010, 6205.10.2020, 6205.30.1510, 6205.30.1520, 6205.90.2020, 6205.90.4020 and 6211.31.0030.

[13] In Category 659-C, only HTS numbers 6103.23.0055, 6103.43.2020, 6103.40.2000, 6103.49.3038, 6104.63.1020, 6104.69.1000, 6104.69.3014, 6114.30.3040, 6114.30.3050, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4020, 6211.33.0010, 6211.33.0017 6211.43.0010.

[14] In Category 659-S, only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[15] In Category 669-P, only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

The Committee for the Inplementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-17432 Filed 7-25-89; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of an Import Limit and Sublimit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Mexico

July 21, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting a limit and sublimit.

EFFECTIVE DATE: July 28, 1989.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit and sublimit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535-9481. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended: section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit and sublimit for cotton and man-made fiber textile products in Categories 359-C/659-C from Mexico and being increased for swing, carryover and unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categorities with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 52461, published on December 28, 1988.

The letter to the Commissioner of Customs and the action taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 21, 1989.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: The Directive amends, but does not cancel, the directive issued to you on December 22, 1988, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Mexico and exported during the twelve-month period

which began on January 1, 1989 and extends through December 31, 1989.

Effective on July 28, 1989, the directive of December 22, 1988 is amended further to adjust the limit and sublimit for the following categories, as provided under the provisions of the current bilateral textile agreement between the Governments of the United States and the United Mexican States:

Category	Adjustment Twelve-Month Limit [1]
[2] 359-C/659-C.....	914,691 kilograms
Non-Special Regime Category Sublimit 359-C/659-C.....	180,880 kilograms

[1] The limit has not been adjusted to account for any imports exported after December 31, 1988.

[2] In Categories 359-C/659-C, only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 in Category 359-C; and 6103.23.0055, 6103.43.2020, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.69.1000, 6104.69.3014, 6114.30.3040, 6114.30.3050, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010 in Category 659-C.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-17433 Filed 7-25-89; 8:45 am]

BILLING CODE 3510-DR-M

Amendment to Export Visa Requirements and New Export Visa Stamps for Certain Textiles and Textile Products Produced or Manufactured in Japan

July 21, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending export visa requirements and transmitting new visa stamps.

EFFECTIVE DATE: August 1, 1989.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and Japan agreed to amend the current export visa arrangement. Facsimiles of new visa stamps are published below.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States Annotated (see 53 FR 44937, published on November 7, 1988). Also see 52 FR 4639, published on February 13, 1987.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 21, 1989.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on February 6, 1987, by the Chairman, Committee for the Implementation of Textile Agreements. That directive instructed you to prohibit entry into the United States for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Categories 200-239, 300-369, 400-469, 600-670 and 800-899, produced or manufactured in Japan and exported to the United States for which the Government of Japan has not issued an appropriate export visa or exempt certification.

Effective on August 1, 1989, the directive of February 6, 1987 is amended to require that visas accompanying merchandise exported from Japan on and after August 1, 1989 state the correct category(s), merged category(s), part categories and unit(s) of quantity provided for in the U.S. Department of Commerce CORRELATION and in the Harmonized Tariff Schedule of the United States (e.g., "Cat. 340-10 DZ").

Facsimilies of the new export visa stamps are enclosed with this letter. The exempt certification stamp remains unchanged.

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted. Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment (e.g., quota Categories 645/646 may be visaed as 645/646 or if the shipment consists solely of Category 645 merchandise, the shipment may be visaed as "Cat. 645," but not as "Cat. 646").

If the original commercial invoice concerned consists of multiple pages, the visa shall be stamped on the front of either the first page or the last page thereof.

If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

Following are lists of acceptable merged and part-categories:

Merged Categories

300/301
317/326
331/631
341/641
342/642
347/348
613/614/615/617
625/626/627/628/629
645/646

For categories 317/326, shipments of Category 326 must be visaed as Category 326.

Part-Categories

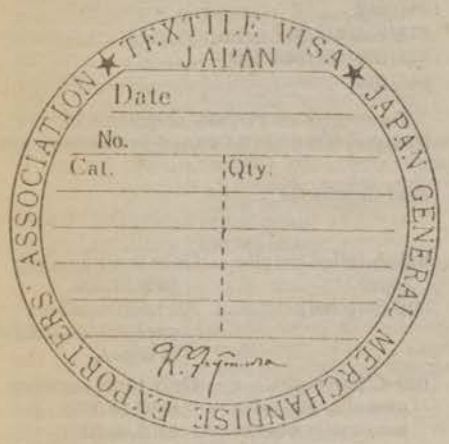
604-A (piled acrylic yarn).	Only tariff number 5509.32.000.
604-O (other).....	All tariff numbers except 5509.32.0000 in 604-A.
659-C (coveralls, overalls, etc., of man-made fiber).	Only tariff numbers 6103.23.0055, 6103.43.2020, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.59.1000, 6104.69.3014, 6114.30.3040, 6114.30.3050, 6203.43.2010, 6023.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.
659-O (other).....	All tariff numbers except 6103.23.0055, 6103.43.2020, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.59.1000, 6104.69.3014, 6114.30.3040, 6114.30.3050, 6203.43.2010, 6023.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010 in Category 659-C.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.



[FR Doc. 89-17538 Filed 7-24-89; 10:43 am]

BILLING CODE 2510-DR-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent to Prepare a Draft Supplemental Impact Statement (SEIS) for Operation and Maintenance of Lake Red Rock, Des Moines River, Marion County, Iowa

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: A draft SEIS will be prepared to present information on the effects resulting from changes in the Regulation Manual and Water Control Plan for Lake Red Rock.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and draft SEIS can be answered by: Joe Slater; 309/788-6361, Ext. 344. Written comments may be addressed to: District Engineer, U.S. Army Engineer District, Rock Island, ATTN: Planning Division, Clock Tower Building—P.O. Box 2004, Rock Island, Illinois 61204-2004.

SUPPLEMENTARY INFORMATION: The Lake Red Rock project encompasses 47,610 acres of fees title land and 28,382 acres of flowage easement land in Marion County, Iowa. The project, built for flood control and low-flow augmentation (conservation storage) and completed in 1969, was authorized by the U.S. Congress in the Flood Control Act of June 28, 1938. Recreation, as a project purpose, is authorized by the Flood Control Act of 1944. Fish and Wildlife receive equal consideration to other authorized project purposes, as provided by the Fish and Wildlife Coordination Act of 1958, as amended. Information will be presented to supplement the original Environmental Impact Statement (EIS) prepared in 1974.

1. Changes in the conservation pool are required to account for the conservation storage lost as a result of sedimentation. Present conservation pool elevation at Lake Red Rock is 734 National Geodetic Vertical Datum (NGVD). Elevation 742 NGVD has been determined as the level of Conservation Pool needed to provide storage for 100 years of silt accumulation and 50,000 acre-feet of water for low flow augmentation.

2. Alternatives, in addition to the No Action alternative, to be considered for achieving the 742 NGVD pool elevation include a one-step raise as well as incremental steps to the final elevation of 742 NGVD.

3. This notice solicits input and assistance from the interested public and invites participation by affected Federal and State agencies having special jurisdiction and/or expertise as cooperating agencies. The State of Iowa has formally requested increasing the conservation pool elevation to 742 NGVD.

a. If public meeting(s) are warranted, they will be scheduled following circulation of the Draft SEIS, currently planned for September 1989. Locations and dates of any scheduled meeting(s) will be announced approximately 30 days in advance by area press release.

b. Impacts to natural, social, economic, and cultural resources resulting from a change in reservoir regulation will be addressed. Portions of the reservoir pool area to be inundated are managed for wildlife by the State of Iowa, under license for fish and wildlife management pursuant to the General Plan. Changes in flood frequencies and

durations are also issues to be addressed.

4. No scoping meeting will be held.

5. The final SEIS is anticipated to be completed by July of 1990.

Date: May 24, 1989.

Kenneth L. Denton,

Department of the Army Alternate Liaison Officer with the Federal Register.

[FR Doc. 89-13963 Filed 7-25-89; 8:45 am]

BILLING CODE 3710-HV-M

Intent to Contract With the City of Durant, OK, for Water Supply Storage Lake Texoma (Denison Dam) Oklahoma and Texas

AGENCY: U.S. Army Corps of Engineers, DOD, Tulsa District.

ACTION: Notice of intent to contract with the city of Durant, Oklahoma, for 2,225 acre-feet of reallocated water supply storage in Lake Texoma (Denison Dam), Oklahoma and Texas.

SUMMARY: The city of Durant, Oklahoma has contacted the U.S. Army Corps of Engineers, DOD, Tulsa, Oklahoma, for a water supply contract for municipal and industrial water supply from Lake Texoma (Denison Dam). The city is in need of 2,225,000 gallons per day to supplement their current supply. This volume of water can be supplied by 2,225 acre-feet of storage. Storage in excess of the city's requirement is available for contract from Lake Texoma. This storage was made available in 1983 by reallocation of 72,600 acre-feet of storage from hydroelectric power to water supply. The U.S. Army Corps of Engineers, DOD, Tulsa District, proposes to contract in the near future with the city of Durant, Oklahoma, for 2,225 acre-feet of storage from Lake Texoma.

The U.S. Army Corps of Engineers, DOD, Tulsa District will be accepting comments on this proposed water supply contract during a 4-week period following the publication date of this notice.

ADDRESSES: For further information about the proposed water supply contract, please contact: Mr. Frank W. Parker, P.E., Chief, Engineering and Construction Division, Tulsa District, Corps of Engineers, P.O. Box 61, Tulsa, OK 74121-0061.

F.L. Smith, Jr.,

Colonel, EN, Commanding.

[FR Doc. 89-17424 Filed 7-25-89; 8:45 am]

BILLING CODE 3710-39-M

Department of the Army

Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: August 14-16, 1989.

Time: 0830-1700 daily.

Place: August 14-15, Fort Monmouth, NJ; August 16, Carnegie Mellon University, PA.

Agenda: The Army Science Board Ad Hoc Subgroup on Software in the Army will hold its second meeting for the purpose of studying the procurement and maintenance of Army software. This meeting is open to the public. Any interested person may attend, appear before of file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89-17444 Filed 7-25-89; 8:45 am]

BILLING CODE 3710-08-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, August 2, 1989 beginning at 1:30 p.m. at the Best Western Inn of Hunt's Landing, 900 Routes 6 and 209, in Matamoras, Pennsylvania. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location and will include status reports on the Upper Delaware Ice Jam Project; the Joint Commission-National Park Service Scenic Rivers Protection Plan; and the Amendment of Compact § 15.1(b) to Fund the Francis E. Walter Reservoir Project.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or § 3.8 of the Compact

1. *Delaware Department of Natural Resources and Environmental Control D-84-10 CP (Supplement No. 2).* An application for an interstate water transfer project to allow Chester Water Authority to sell 4.0 million gallons per day (mgd) of water to Artesian Water Company and 0.2 mgd of water to Wilmington Suburban Water Corporation via appropriate interconnections, capable of operating in both directions, to meet water needs in the respective service areas in New Castle County, Delaware. The project is located in New Castle County, Delaware, north of the Chesapeake and Delaware Canal, and in southern Chester County, Pennsylvania along the Delaware-Pennsylvania state boundary.

2. *Chester Water Authority D-84-55 CP.* Expansion of the area served by the Chester Water Authority by means of interconnections with Artesian Water Company and Wilmington Suburban Water Corporation, in New Castle County, Delaware. The applicant's current service area is Chester and Delaware Counties, Pennsylvania. The expanded service area will include portions of New Castle County, Delaware.

3. *New Jersey—American Water Company (Northern District—Washington System) D-85-2 CP Renewal.* An application for the renewal of a ground water withdrawal project to supply up to 25.9 million gallons (mg)/30 days of water to the applicant's distribution system from Well No. 5. Commission approval on February 27, 1985 was limited to four years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 51.8 mg/30 days. The project is located in Washington Township, Warren County, New Jersey.

4. *Borough of Roosevelt D-85-8 CP Renewal.* An application for the renewal of a ground water withdrawal project to supply up to 7.0 mg/30 days of water to the applicant's distribution system from Well Nos. 3 and 4. Commission approval on March 27, 1985 was limited to four years and will expire unless renewed. The total withdrawal from all wells has been reduced from 9.3 to 7.0 mg/30 days. The project is located in Roosevelt Borough, Monmouth County, New Jersey.

5. *Township of Sparta D-87-59 CP.* The revision of an application originally submitted by the Lake Mohawk-Sparta Water Company for approval of a ground water withdrawal project to supply up to 2.16 mg/30 days of water to the applicant's distribution system from

new Well No. 6, and to limit the withdrawal from all Delaware River Basin wells to 15 mg/30 days. The project is located in Sparta Township, Sussex County, New Jersey.

6. *Giorgio Food, Inc. D–88–43.* An application to upgrade and modify wastewater treatment facilities to serve the applicant's vegetable processing plant in Maiden Creek Township, Berks County, Pennsylvania. The applicant currently discharges approximately 0.25 mgd of pretreated wastewater into the Maiden Creek Township sewer system. The proposed treatment plant is designed to remove over 90 percent of the BOD and SS from a flow of 0.5 mgd. Treatment plant effluent will be discharged to Willow Creek in the Maiden Creek Basin.

7. *Borough of Doylestown D–88–76 CP.* An application to upgrade a 0.7 mgd sewage treatment plant located off Green Street in Doylestown Borough, Bucks County, Pennsylvania. The applicant proposes to replace several existing facilities, and add a chemical treatment process to remove phosphorus. The plant is also designed to remove 90 percent of the influent BOD_5. The treatment plant is designed to serve 4,792 persons in portions of Doylestown Township and Borough through the year 2009. Treatment plant effluent will continue to discharge through the existing outfall to Country Club Run, a tributary of Neshaminy Creek.

8. *Moorestown Foursome Partnership D–88–82.* An application for approval of a ground water and surface water withdrawal project to supply up to 26.0 mg/30 days of water to the applicant's golf course irrigation system from existing Well No. 1 and two ponds. The project is located in Moorestown Township, Burlington County, New Jersey.

9. *Rohm and Haas Delaware Valley, Inc. D–89–2.* An application to upgrade an industrial wastewater treatment plant located near River Road and State Road in Bristol Township, Bucks County, Pennsylvania. The upgraded facility will continue to treat an average monthly flow of 1.44 mgd of industrial process wastewater. Effluent will be discharged to a proposed outfall on Hog Run Creek, a tributary of the Delaware River, located in Water Quality Zone 2. The applicant proposes to treat the combined wastewaters generated at its Bristol and Croyden manufacturing plants.

10. *Borough of Dublin D–89–15 CP.* An applicaiton for approval of a ground water withdrawal project to supply up to 4.36 mg/30 days of water to the applicant's distribution system from new Well No. 3, and to retain the existing withdrawal limit from Well Nos. 1 and 2 as presented in condition "e." of Docket No. D–81–75 CP Renewal. The project is located in Dublin Borough, Bucks County, and is located in the Southeastern Pennsylvania Ground Water Protected Area.

11. *Manwalamink Water Company D–89–36 CP.* An application for approval of a ground water withdrawal project to supply up to 4.32 mg/30 days of water to the applicant's distribution system from each new well, Nos. 3 and 5, and to increase the existing withdrawal limit of 4.5 mg/30 days from all wells to 15 mg/30 days. The project is located in Smithfield and Middle Smithfield Townships, Monroe County, Pennsylvania.

12. *Mount Airy Lodge, Inc. D–89–37.* An application for approval of a surface water withdrawal of up to 0.3 mgd to provide water to the applicant's snow-making and golf course spray irrigation facilities. Two intakes will withdraw water from the applicant's impoundment on Forrest Hills Run, a tributary of Paradise Creek in the Brodhead Creek watershed. Golf course irrigation is comprised of surface water mixed with treated wastewater from the applicant's sanitary treatment plant, approved for upn to 0.225 mgd discharge. Snow-making facilities use only surface water. The project is located in Paradise Township, Monroe County, Pennsylvania, approximately a half mile northeast of the intersection of Routes 314 and 616.

13. *Stillwater Sewer Corporation D–89–41.* An application to expand and upgrade the existing sanitary treatment facilities serving Stillwater Lakes residential development from 0.014 mgd to 0.235 mgd. The expansion will occur in two phases. Phase I construction of facilities will increase treatment capacity to 0.114 mgd; Phase II will expand facilities to bring treatment capacity to 0.235 mgd. The new facilities will provide tertiary treatment. The project is located near Route 81E, south of Stillwater Lake Estates in Coolbaugh Township, Monroe County, Pennsylvania. The treated effluent will continue to discharge to Hawkey Run, a tributary to Stillwater Lake.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,

Secretary.

July 18, 1989.

[FR Doc. 89–17443 Filed 7–25–89; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.019, 84.021, 84.022]

Inviting Applications Under Fulbright-Hays Training Grant Programs

AGENCY: Department of Education.

ACTION: Combined notice inviting applications under Fulbright-Hays Training Grant Programs: Faculty Research Abroad, Group Projects Abroad, and Doctoral Dissertation Research Abroad for Fiscal Year 1990 New Awards.

Purpose of Programs: Applications are invited for new awards under the Fulbright-Hays Training Grant Programs for Fiscal Year 1990. The Fulbright-Hays Training Grant Programs include the Faculty Research Abroad, Group Projects Abroad, and Doctoral Dissertation Research Abroad programs. Authority for these programs is contained in the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)(6)).

The Faculty Research Abroad Program offers opportunities to faculty members of institutions of higher education for research and study abroad in modern foreign languages and area studies.

The Group Projects Abroad Program provides grants to educational institutions, State departments of education, and nonprofit educational organizations for training, research, and study abroad in modern foreign languages and area studies by groups of individuals engaged in a common endeavor.

The Doctoral Dissertation Research Abroad Program provides opportunities for graduate students to engage in full-time dissertation research abroad in modern foreign languages and area studies.

Deadline for Transmittal of Group Projects Abroad Applications: October 23, 1989.

Deadline for Transmittal of Faculty Research Abroad and Doctoral Dissertation Research Abroad Applications: October 30, 1989.

Applications Available: August 31, 1989.

Eligible Applicants: For the Faculty Research Abroad and Doctoral Dissertation Research Abroad Programs, eligible applicants are institutions of higher education. For the Group Projects Abroad Program, eligible applicants include institutions of higher education, State departments of education, private nonprofit educational organizations, and consortia of such institutions, departments, and organizations.

FULBRIGHT-HAYS TRAINING GRANT PROGRAMS

Title and CFDA number	Available funds	Estimated range of awards	Estimated size of awards	Estimated number of awards	Project period in months
Faculty Research Abroad (84.019)	$692,000 Rs. 784,550*	$8,000 to 60,000	$28,000	25	3 to 12
Group Projects Abroad (84.021)	$2,055,813 Rs. 5,120,400*	$20,000 to 200,000	$55,000	38	1.5 to 12
Doctoral Dissertation Research Abroad (84.022).	$1,482,000 Rs. 1,365,450*	$4,000 to 50,000	$17,500	85	6 to 12

*Rupee allocation from the U.S.-India Fund.

Note: The Department is not bound by any estimates in this notice.

Applicable Regulations: Regulations applicable to these programs include the following:

(a) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 81 and 85; and (b) Regulations governing the Higher Education Programs in Modern Foreign Language Training and Area Studies, 34 CFR Parts 662, 663, and 664.

Priorities: The regulations governing the Faculty Research Abroad Program (34 CFR 663.32(c)), Group Projects Abroad Program (34 CFR 664.32) and Doctoral Dissertation Research Abroad Program (34 CFR 662.32(c)) provide for the establishment of funding priorities by the Secretary. For Fiscal Year 1990, the Secretary has established funding priorities for these Fulbright-Hays programs. These priorities will be applied in accordance with the provisions of the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.105(c)(3).

All available funds for these programs will be reserved solely for applications that propose research and training focusing upon one or more of the following world areas: (1) Africa; (2) the Western Hemisphere; (3) East Asia; (4) Southeast Asia and the Pacific; (5) Eastern Europe and the U.S.S.R.; (6) the Near East; or (7) South Asia. Applications that propose projects focusing on Western Europe will not be funded.

For Applications or Information Contact: Mrs. Merion Kane (Faculty Research Abroad Program), Telephone (202) 732–3301, Dr. Stephney Keyser (Group Projects Abroad Program), (202) 732–3394 or Ms. Vida Moattar (Doctoral Dissertation Research Abroad Program), (202) 732–3291, Department of Education, Center for International Education, 400 Maryland Avenue SW., Washington, DC 20202–5331.

Program Authority: 22 U.S.C. 2452(b)(6).

Dated: July 18, 1989.

James B. Williams,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 89–17481 Filed 7–25–89; 8:45 am]

BILLING CODE 4000–01–M

Pell Grant, Perkins Loan (Formerly the National Direct Student Loan), College Work-Study, Supplemental Educational Opportunity Grant, and Stafford Loan (Formerly Guaranteed Student Loan) Programs; Revision of the Need Analysis Systems for the 1990–91 Academic Year

AGENCY: Department of Education.

ACTION: Notice of revision to the Congressional Methodology and the Family Contribution Schedule methodology for the 1990–91 award year; correction.

On May 26, 1989, the Secretary of Education published in the **Federal Register** (54 FR 22840) a notice of revision to the Congressional Methodology and the Family Contribution Schedule methodology for the 1990–91 award year.

This notice makes a correction as follows:

In the note following the Family Size Offsets table, "$1,100" is changed to "$1,800".

Dated: July 21, 1989.

James B. Williams,

Acting Assistant Secretary for Postsecondary Education.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Supplemental Educational Opportunity Grant Program; 84.032 Guaranteed Student Loan Program; 84.033 College Work-Study Program; 84.038 Perkins Loan Program; 84.063 Pell Grant Program)

[FR Doc. 89–17484 Filed 7–25–89; 8:45 am]

BILLING CODE 4000–01–M

Office of Postsecondary Education

Plus and Supplemental Loans for Students Programs

AGENCY: Department of Education.

ACTION: Notice of SLS and PLUS Interest Rate for the Period July 1, 1989, Through June 30, 1990.

The Acting Assistant Secretary for Postsecondary Education announces the interest rate for variable rate Supplemental Loans for Students (SLS) and PLUS loans to be 12% for the period July 1, 1989, through June 30, 1990. The interest rate for these loans is provided under section 427A(c) of the Higher Education Act of 1965 (the Act), as amended (20 U.S.C. 1077a(c)).

Section 427A(c) of the Act provides that the variable interest rate applies to new SLS and PLUS loans disbursed on or after July 1, 1989, existing SLS and PLUS loans made at a variable interest rate (currently 10.45 percent), and SLS and PLUS loans made prior to July 1, 1987 that are refinanced at a variable rate. The variable rate applies for each 12-month period beginning July 1 and ending June 30. The rate is equal to the bond equivalent rate of the 52-week Treasury bills auctioned at the final auction held before the June 1 preceding that 12-month period plus 3.25 percent. Section 427A(c)(4)(A) of the Act limits the rate to a maximum of 12 percent.

Pursuant to section 427A(c) of the Act, as amended, the Acting Assistant Secretary has determined the interest rate for variable rate PLUS and SLS loans for the period July 1, 1989 through June 30, 1990 in the following manner:

Step 1. By determining the bond equivalent rate of the 52-week Treasury bills auctioned at the final auction prior to June 1, 1989 (9.15 percent);

Step 2. By adding 3.25 percent to that average; and

Step 3. By reducing the resulting percent to the maximum rate (12 percent) allowed by the Act.

FOR FURTHER INFORMATION CONTACT: Ralph B. Madden, Program Analyst, Division of Policy and Program Development, Department of Education on (202) 732–4242.
(20 U.S.C. 1077a(c)).

Dated: June 14, 1989.

James B. Williams,

Acting Assistant Secretary for Postsecondary Education.

(Catalog of Federal Domestic Assistance No. 94.032, Guaranteed Student Loan Program and PLUS Program)

[FR Doc. 89–17485 Filed 7–25–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Final Policy for Compensating Non-Federal Hydroelectric Projects for Monetary Costs and Power Losses Caused By Federal Agency Actions To Implement Columbia River Basin Fish and Wildlife Program Measures

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Issuance of BPA's policy to provide compensation for costs resulting from fish and wildlife program measures and announcement of the availability of a document describing the Administrator's decision.

SUMMARY: BPA finalized its Compensation Policy (Policy) for the Implementation of Columbia River Basin Fish and Wildlife Program measures. The Policy was established pursuant to section 4(h)(11)(A)(ii) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act). BPA published a draft policy for public comment in the **Federal Register** on June 11, 1988 (53 FR 21888). We received comments from 24 individuals and entities.

Issuance of the Policy completes a policy and process to address claims filed by non-Federal project operators for compensation for monetary costs and power losses due to Federal agency actions to implement the Program. The Program, adopted by the Northwest Power Planning Council (Council), provides for various actions to protect, mitigate, and enhance Columbia River Basin fish and wildlife. BPA's decision document containing its responses to public comment is available from BPA's Public Involvement Office.

DATE: The Policy is effective August 28, 1989.

FOR FURTHER INFORMATION CONTACT: Ms. Jo Ann C. Scott, Public Involvement office, at the address listed above, 503–230–3478. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048.

Information may also be obtained from:

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 243, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Robert N. Laffel, Eugene District Manager, Room 206, 2111 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington, 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, Room 307, 301 Yakima Street, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Terence G. Esvelt, Puget Sound Area Manager, Suite 400, 201 Queen Ann Avenue, Seattle, Washington 98109–1030, 206–442–4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, 101 West Poplar, Walla Walla, Washington 99362, 509–522–6225.

Mr. Floyd Actis, Acting Idaho Falls District Manager, 1527 Hollipark Drive, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Thomas H. Blankenship, Boise District Manager, Room 494, 550 West Fort Street, Boise, Idaho 83724, 208–334–9137.

SUPPLEMENTARY INFORMATION:

I. Background Information

Section 4(h)(11)(A) of the Northwest Power Act provides:

> The Administrator and other Federal agencies responsible for managing, operating, or regulating Federal or non-Federal hydroelectric facilities located on the Columbia River and its tributaries shall * * * (ii) exercise such responsibilities, taking into account at each relevant stage of decisionmaking processes to the fullest extent practicable, the program adopted by the Council under this subsection. If, and to the extent that, such other Federal agencies as a result of such consideration impose upon any non-Federal electric power project measures to protect, mitigate, and enhance fish and wildlife which are not attributable to the development and operation of such project, then the resulting monetary costs and power losses (if any) shall be borne by the Administrator in accordance with this subsection.

The Northwest Power Act does not establish specific procedures or standards to guide BPA in compensating non-Federal project operators for costs or power losses resulting from actions imposed by Federal agencies pursuant to the Northwest Power Act. Based on inquiries from several Public Utility Districts, in May 1983 BPA published a notice of our intent to enter into rulemaking to develop policies and procedures to compensate non-Federal project operators. We sought comments from interested parties.

In 1985, based on our extensive review of the comments, we determined the development of a compensation policy would be premature. Since passage of the Northwest Power Act in 1980, and adoption of the Program by the Council in 1982, BPA had not received any claims. Given these circumstances BPA concluded that we could not anticipate the issues that would be raised by claims. Nor could we anticipate the procedures necessary to review and address claims.

BPA did not receive any compensation claims until July 1987. At that time BPA received three claims, all based upon Federal water releases in May and June of 1987. These claims were filed by the Public Utility District No. 1 of Douglas County (Douglas PUD) on July 29, 1987; the Public Utility District No. 1 of Chelan County (Chelan PUD) on October 5, 1987; and the Public Utility District of Grant County (Grant PUD) on November 25, 1987.

In our June 1988 **Federal Register** Notice, we indicated that we would implement a compensation policy before processing these claims. However, we have chosen to address the claims independent of this Policy. Preceding this Policy, the actions of the U.S. Army Corps of Engineers (Corps), the Council, and the claimants in 1987 reflect a unique circumstance requiring separate consideration. Had this Policy been in place, and considered by the Council, Corps, and claimants, we believe the actions which led to the three 1987 claims may not have been taken or may have been different. Consequently, the terms and conditions set forth in this Policy may not be fairly applicable to those claims. However, any decisions we made concerning those claims will not form a precedent for future compensation decisions concluded under the Policy.

BPA reached negotiated settlements with the three Mid-Columbia PUDs during late January and early February 1989. All settlements were for lesser amounts of energy or money than originally claimed. Settlement discussions centered on two issues: (1) The value of the energy spilled, and (2) a

comparison of the operations the PUDs actually undertook against the hypothetical operations that could have been taken under the Corps' Coordinated Plan of Operation which would have minimized the PUDs' losses.

Douglas County PUD had claimed a loss of 2,087 megawatt hours and agreed to a settlement whereby BPA would deliver 1,315 megawatt hours of energy to Douglas during the 1989 Water Budget period when a Water Budget request would be in effect. Chelan PUD's claim was for 13,058 megawatt hours. Assuming an average price of 15 mills per kilowatthour, the value of the claim would be $195,870. BPA and Chelan settled for a $163,134 payment from BPA to Chelan. Grant PUD's claim was for $591,279 and was settled with BPA paying $451,495. Any decisions BPA made concerning the 1987 claims will not form a precedent for future compensation decisions made pursuant to this Policy.

Summary of Issues

The Administrator's decision document on the Compensation Policy will be sent to all commenters. It addresses the following general issues which were raised in our June 1988 **Federal Register** Notice and in the comments we received. These issues include:

- The procedures BPA will follow when we receive claims;
- Defining the Federal actions and Program measures that may be compensable and how BPA will determine if a Program measure addresses fish and wildlife effects that are attributable to non-Federal projects; and
- How BPA will compensate claimants.

Based upon the comments received and further examination of the issues, we have made several substantive changes in the Policy:

1. The Policy is effective from 31 days after the date of its publication in the **Federal Register** and will not be applied to claims received before the effective date of the Policy.

2. Any Federal agency proposing to implement a Program measure which may result in a claim should consult with interested parties and coordinate actions with BPA in advance, as provided in section 4(h)(11)(B) of the Northwest Power Act.

3. To be "imposed," a measure must be undertaken by a claimant pursuant to an order issued by a Federal agency by force of regulation or law. Water releases from upstream projects will not qualify for compensation unless the claimant is required by an order to store or release water under authority of law.

4. At the request of interested parties and for good cause shown, BPA may extend the period for comment or consult further respecting any claim.

5. BPA may undertake a fact-finding process to address a claim, and may employ a hearings officer.

6. After BPA has made a decision concerning a claim, the Policy provides for a 31-day no-action period, rather than a comment period.

BPA received no comments on the Paperwork Reduction Act aspects of the proposed Policy.

II. Final Policy

Section 1. Effective Date

This policy shall be effective 31 days from the date of its publication in the **Federal Register.**

Section 2. Definitions

A. "Claimant" means any non-Federal hydroelectric power project licensee requesting compensation under this policy.

B. "Basin" means the Columbia River and its tributaries within the borders of the United States.

C. "Costs and Power Losses" means those unavoidable monetary costs and electric power losses directly caused to non-Federal hydroelectric power projects as a result of a Federal agency's imposition of a Measure.

D. "Council" means the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council) established by the Pacific Northwest Electric Power Planning and Conservation Act, PL 96–501.

E. "Federal Agencies" for purposes of this Policy means those Federal agencies, other than BPA, which are responsible for managing, operating, or regulating hydroelectric power projects, including the U.S. Army Corps of Engineers (Corps), the Bureau of Reclamation (Bureau), and the Federal Energy Regulatory Commission (FERC).

F. "Impose" or "imposition" refers to the act of applying fish and wildlife obligations or restrictions upon a claimant which the claimant must implement in order to comply with applicable Federal law, regulation, or order.

G. "Measure" means a specific provision in the Program, as contemplated in the Northwest Power Act, calling upon a Federal agency or other entity to undertake actions to protect, mitigate, and enhance fish and wildlife in the Basin.

H. "Program" means the Columbia River Basin Fish and Wildlife Program and amendments thereto adopted by the Northwest Power Planning Council.

Section 3. Conditions Governing Compensation Payment

A. The Administrator will, as a general rule, consider compensation claims only from licensees of non-Federal hydroelectric power projects located within the Columbia River Basin. If a utility which is not a licensee can show that it has rights in a project which could not be represented by the project's licensee, such utility may petition the Administrator to file and request itself in a claim, provided the utilty meets the other requirements of BPA's policy and procedures. The Administrator may exercise discretion to grant or deny the petition.

B. When any Federal agency proposes to implement a measure which may give rise to a claim, it should consult and coordinate its actions in advance, pursuant to section 4(h)(11)(B) of Pub. L. 96–501. When any licensee of a non-Federal project becomes aware that a Federal agency may take or has taken an action which may form the basis of a claim, it should promptly notify that agency and the Administrator.

C. In order to establish entitlement to compensation, claimants must demonstrate to the Administrator that claimed costs and power losses are the direct result of Measures imposed by a Federal agency to mitigate fish and wildlife effects which are not attributable to the development and operation of the non-Federal project which is the subject of a claim.

D. The Administrator may use other authorities to agree in advance with non-Federal project owners or operators to provide consideration for operational modifications to benefit fish and wildlife.

Section 4. Requirements for Claimants

A. Claimants for compensation must submit a written claim to BPA within 120 days after the date a monetary cost or power loss occurs.

B. Claimants must demonstrate:

1. That claimed monetary costs or power losses have been involuntarily incurred;

2. That the Federal agency imposed upon the claimant a Measure which directly caused the claimed monetary costs or power losses; and

3. The extent to which those fish and wildlife effects addressed by the Measure were not attributable to the development and operation of the claimant's project.

C. Claimants must provide information and analyses that demonstrate and disclose:

1. Any actions that the claimant took or could have taken to mitigate or reduce the impact created by the Federal agency imposition;

2. Any actions that the claimant took that increased or exacerbated the impact created by the Federal agency imposition;

3. Any benefit the claimant may have received from the Federal agency imposition which in whole or in part offset the cost or power loss; and

4. Any generation capability the claimant may have had but did not use to realize benefit from the Federal agency imposition.

D. Claimants shall demonstrate the methods and formulae used to quantify monetary costs and/or power losses.

E. Claimants shall provide additional information the Administrator may require to justify compensation payments including information as to how the project would have been operated in the absence of the Federal imposition.

F. A claim for compensation must be signed by the chief executive officer or duly authorized representative of the claimant, certifying that, according to his or her knowledge and belief, the contents are true and accurate.

G. Claimants must maintain records for three years following the filing of a claim which will permit the Administrator to audit, inspect, or otherwise review any aspect of power operations, construction, or operation for which compensation is sought or paid.

H. Documents submitted to BPA shall be available to the public.

Section 5. The Administrator's Decisionmaking Process

A. Review of Claims for Compensation. The Administrator shall, in accord with 4(h)(11)(B) of the Northwest Power Act and section 7 of this Policy, review each compensation claim in a timely manner to determine whether the claim contains sufficient information to enable the Administrator to make a decision consistent with the criteria of this Policy. The Administrator shall review all existing agreements or contracts to determine if the claimant may have waived a right to compensation under this Policy.

B. Insufficient Information. The Administrator may request submission of additional information supporting the claim and if such information is not provided within a reasonable time, the Administrator may deny the claim. The Administrator shall state in writing the reasons for denial based on insufficient information.

C. Fact-finding Process. BPA may implement a fact-finding process if the Administrator determines a claim involves controversial or complex issues including, but not limited to, attributing adverse operational impacts on fish and wildlife to various projects; determining the availability of mitigation opportunities; and the extent of losses suffered by claimants. The Administrator may appoint a hearings officer to conduct a formal fact-finding process, make findings based on substantial evidence on the record, and recommend such findings to the Administrator. The parties to this process shall be limited to the claimant and BPA. The Administrator shall review and consider the factual findings of the hearings officer.

D. Decisions on Compensation Claims. Upon completion of review, the Administrator shall determine the compensable monetary costs or amount and value of power losses imposed upon the claimant and approve or deny a claim either in whole or in part. The Administrator shall state in writing the reasons for the determination and adjustments, if any, to the claim.

Section 6. Form of Compensation Payment

The Administrator shall have discretion to compensate approved claims by non-Federal hydroelectric operators with power, cash, or another reasonable form of payment.

A. Payment with Power. Compensation to claimants under this Policy for power losses will normally be made in the form of power. After consultation with the claimant, compensation power shall be delivered at times convenient to BPA in a form that renders its value to the claimant equivalent to the value of the power at the time lost.

B. Payment with Cash. Compensation to claimants under this Policy for cash losses will normally be made in the form of cash.

Section 7. Public Notice and Comment

A. Notice of Receipt of Claim. In addition to a brief notice in the **Federal Register**, the Administrator shall provide written notice of receipt of a compensation claim to interested parties. The notice shall:

1. Indicate the name and address of the claimant;

2. Describe the imposition alleged by the claimant which resulted in the claim;

3. Indicate the amount and type of compensation sought;

4. Invite interested parties to comment within 30 days; and

5. Indicate the availability of the claim to the public.

B. Interested Parties. Interested parties are:

1. State and Federal fish and wildlife agencies in the Pacific Northwest;

2. Indian Tribes of the Columbia Basin;

3. Non-Federal project operators;

4. Other BPA customers in the Pacific Northwest;

5. U.S. Army Corps of Engineers;

6. Federal Energy Regulatory Commission;

7. Bureau of Reclamation;

8. Pacific Northwest Power Planning Council; and

9. Any other persons requesting notice.

C. Extension of Comment Period. At the request of interested parties and for good cause shown, the Administrator may extend the period for comment or consult further respecting any claim.

D. Notice of Approval or Disapproval. The Administrator shall provide written notice to interested parties of the final action to be taken on all claims. The notice shall include:

1. The name and address of the claimant;

2. A description of the imposition alleged by the claimant which resulted in the claim;

3. The amount and type of compensation sought;

4. The decision of the Administrator to deny or approve the claim, and the reasons for the determinations made respecting the claim;

5. A statement indicating the availability to the public of the claim and decision documents;

6. A statement indicating that any action to compensate will not be taken for 31 days from the date of the notice of the Administrator's decision; and

7. A statement indicating that the decision will become final at the end of that period.

Issued in Portland, Oregon, on June 14, 1989.

Roger E. Seifert,

Deputy Assistant Administrator, Bonneville Power Administration, Washington, DC Office.

[FR Doc. 89-17478 Filed 7-25-89; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[ERA Docket No. 88-70-NG]

Atlantic Richfield Co.; Application to Amend Blanket Authorization to Import Natural Gas from Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application to amend conditional order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on June 26, 1989, of an application filed by Atlantic Richfield Company (ARCO) for an amendment to the conditional authorization, DOE/FE Opinion and Order No. 301 (February 27, 1989, 1 FE Para. 70,214), granting blanket authorization to import up to 25 Bcf of Canadian natural gas per year for two years, for use as fuel in its Cherry Point oil refinery located near Ferndale, Washington. The final approval of this import was conditioned on completion of the environmental review of a new pipeline, known as the Ferndale Pipeline System. ARCO now proposes to import Canadian natural gas using existing facilities and is seeking to have its conditional authorization amended accordingly. Under ARCO's original proposal, the gas, to be purchased from various Canadian suppliers, would be transported from a point of importation at the International Border near Sumas, Washington, through new pipeline facilities to be jointly owned and operated by ARCO and Intalco Aluminum Corporation (Intalco). The amendment requested would grant ARCO its blanket authorization for a two-year period beginning on the date of first delivery using existing facilities rather than the date the proposed new pipeline is built and operable. ARCO states that it will file quarterly reports detailing each import transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than August 25, 1989.

FOR FURTHER INFORMATION CONTACT:

Robert Groner, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–1657.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: ARCO currently receives gas which is acquired on the spot market in Canada and imported on its behalf by Cascade Natural Gas Corporation (Cascade) and transported through the pipeline facilities of Northwest Pipeline Corporation (Northwest Pipeline) and Cascade. The requested amendment would enable ARCO to directly import this natural gas from Canadian sources using the existing facilities of Northwest Pipeline and Cascade until such time as the Ferndale Pipeline System is completed.

The decision on the application for import authority will be made consistent with the DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Based on the application, the only change represented by this amendment request is the proposed use of existing facilities. Opinion and Order No. 301 made a preliminary finding that the underlying arrangement, like other, previously authorized blanket imports, is inherently competitive. The Opinion and Order also made preliminary findings that ARCO has demonstrated a need for the gas and that the security of supply for each purchase is assured by its short term and the number of potential suppliers. Accordingly, those preliminary findings are not expected to be changed by the proposed use of existing facilities. Parties, especially those that may oppose this requested amendment, should address the impact of the use of existing facilities on the consistency of this proposal with DOE policy guidelines.

NEPA Compliance

The DOE has determined that in cases not involving major new construction its compliance with the National Environment Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to it guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE with regard to existing facilities. This exclusion is not relevant to the proposed Ferndale Pipeline System.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from person who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to interevene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585. They must be filed no later than 4:30 p.m., e.d.t., August 25, 1989.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially

advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of ARCO's amendment application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 18, 1989.

Constance L. Buckley,

Acting Deputy Assistant Secretary for Fuels Programs Fossil Energy.

[FR Doc. 89-17477 Filed 7-25-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CS89-35-000, et al.]

Knob Hill Oil & Gas Co., Inc., et al.; Applications for Small Producer Certificates [1]

July 19, 1989.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Commission's regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 7, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

Docket No.	Date filed	Applicant
CS89-35-000....	6-12-89	Knob Hill Oil & Gas Company, Inc., 1143 Crane Street, Suite 200, Menlo Park, California 94025.
CS89-37-000....	6-30-89	Merrico Resources, Inc., P.O. Box 849, Ardmore, Oklahoma 73402.
CS89-38-000....	7-5-89	ALN Resources Corporation, Mach Petroleum, Inc., and Calumet Petroleum Limited Partnership, 5727 South Lewis Avenue, Suite 700, Tulsa, Oklahoma 74105.
CS89-39-000....	7-5-89	Bristol Resources Corporation, 3601 East 51st Street, Suite B & C, Tulsa, Oklahoma 74135.
CS89-40-000....	7-11-89	Hugoton Energy Corporation, Western Gulf U.S., Inc., and Baja Petroleum Corporation, 229 East William, Suite 500, Wichita, Kansas 67202.
CS89-41-000....	7-12-89	GLG Energy, L.P., 400 W. 15th Street, Suite 1650, Austin, Texas 78701.
CS89-42-000....	7-18-89	Keldon Oil Company, P.O. Box 6129, Abilene, Texas 79608.

[FR Doc. 89-17408 Filed 7-25-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA89-1-22-000 and RP89-204-000]

CNG Transmission Corp.; Supplemental; Proposed Changes In FERC Gas Tariff

July 19, 1989.

Take notice that CNG Transmission Corporation ("CNG"), on June 30, 1989, pursuant to section 4 of the Natural Gas Act, Part 154.309 of the Commission's regulations (18 CFR 154.309) and section 12 of the General Terms and Conditions of CNG's tariff, filed the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff:

Ninth Revised Sheet No. 31
First Revised Sheet No. 150
Original Sheet No. 159-A
Original Sheet No. 159-B
First Revised Sheet No. 160
Alternate First Revised Sheet No. 150
Alternate Original Sheet No. 159-A
Alternate Original Sheet No. 159-B
Alternate First Revised Sheet No. 160.

The filing constitutes CNG's annual PGA to become effective on September 1, 1989.

CNG has also filed tariff sheets to become effective September 1, 1989 that proposed changes to its PGA clause that would permit it to track standby charges and certain transportation and related fuel costs associated with obtaining gas for CNG's system supply. CNG has also filed alternate tariff sheets similar to the primary tariff sheets. The alternate tariff sheets, however, recognize a stricter definition of "purchased gas costs."

Copies of the filing were served upon CNG's sales customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 and 385.211). All motions or protests should be filed on or before July 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Loise D. Cashell,

Secretary.

[FR Doc. 89-17409 Filed 7-25-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-240-000, RP89-10-000, and RP89-125-000]

Panhandle Eastern Pipe Line Co.; Revised Date of Informal Conference Relating to Joint Stipulation of Issues

July 19, 1989.

The informal conference relating to the formulation of a joint stipulation of issues in the above-captioned proceeding that was scheduled for August 11, 1989, by order of the

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Presiding Administrative Law Judge issued on May 9, 1989, will be convened instead on August 9, 1989.

The informal conference in the above-captioned proceedings will be convened on August 9, 1989, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

All parties and the Commission Staff are invited to attend this informal conference. Persons wishing to become parties must move to intervene pursuant to the Commission's regulations (18 CFR 385.214), and have their motions granted.

For additional information, contact John J. Keating, (202) 357–5762.

Lois D. Cashell,

Secretary.

[FR Doc. 89–17410 Filed 7–25–89; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3620–6]

Privacy Act; System of Records

AGENCY: Environmental Protection Agency.

ACTION: Notice of a new Privacy Act system of records.

SUMMARY: The United States Environmental Protection Agency (EPA) is publishing a notice for public comment on a system of records subject to the Privacy Act of 1974. This system is the "Accounts Receivable Module." We have provided background information about the proposed system in the "Supplemental Information" section below.

EFFECTIVE DATE: This proposed action will be effective, without further notice, September 25, 1989, unless public comments are received which result in a contrary determination.

ADDRESS: Comments should be addressed to: Director, Financial Management Division, (PM–226F), 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Gary M. Katz, Director, Financial Management Division (PM–226F), 401 M Street, SW., Washington, DC 20460. Telephone: (202) 382–5097.

SUPPLEMENTARY INFORMATION: EPA is establishing an integrated financial management system (IFMS), an automated information system which will include all records related to the Agency's financial and budgetary responsibilities. The IFMS will encompass several, separate Privacy Act systems of records, all of which will be accessed by individual's names through the IFMS cross-reference index. The Accounts Receivable Module, which is the subject of this Privacy Act notice, will be part of the IFMS.

The Accounts Receivable Module will be used to create a record of all receivables owed the Agency and to track the status of these receivables. Other uses include generating management reports, following up on overdue accounts, and identifying past due accounts.

This system of records will also be used to implement the Debt Collection Act of 1982 (Pub. L. 97–365). The Debt Collection Act was established to increase the efficiency of Government-wide efforts to collect debts owed the United States and to provide additional procedures for the collection of such debts. These procedures authorize Federal agencies to take advantage of debt collection services and techniques commonly available to the private sector, such as the use of private debt collection agencies and credit bureaus, and the collection of debts through salary and administrative offset. To implement these techniques and services, the Debt Collection Act authorizes agencies to disclose the names, addresses, and social security numbers of individuals, and personal debt collection information from systems of records.

The Privacy Act permits agencies to disclose information without the consent of the individual for "routine uses", that is, for purposes that are compatible with the purposes for which the information is collected. Certain routine uses proposed for this system meet the compatibility requirement of the Privacy Act because they are either specifically authorized by or are consistent with and directly related to the purposes of the Debt Collection Act. These proposed uses and, where applicable, the sections of the Debt Collection Act which authorize their use, include the following: (1) Information will be disclosed to the Internal Revenue Service (IRS) in order to obtain a taxpayer's mailing address to locate the taxpayer for debt collection purposes (Section 8, codified at IRC 6103). (2) Taxpayer mailing addresses obtained from the IRS will be disclosed to agents of EPA in order to locate the taxpayer for debt collection purposes. However, disclosures of a taxpayer mailing address obtained from the IRS to a consumer reporting agency may be made only for the purpose of having credit reports prepared by the consumer reporting agency (Section 8, codified at IRC 6103). (3) In addition to taxpayer mailing addresses, other debtor information will be disclosed to consumer reporting agencies to obtain credit reports for use by EPA for debt collection purposes. (4) Debtor information will be disclosed to other Federal agencies to effect salary or administrative offsets (Section 5, codified at 5 U.S.C. 5514, and Section 10, codified at 31 U.S.C. 3716, respectively, and as authorized in common law). Before making disclosures for offset purposes, EPA will comply with all procedural steps and safeguards required by Sections 5 and 10 of the Debt Collection Act. (5) Debtor information will be disclosed to debt collection agencies under contract to EPA to collect debts owed the United States (Section 13, codified at 31 U.S.C. 3718, and as authorized in common law). Debt collection agencies will be required to comply with the requirements of the Privacy Act and will be subject to the criminal penalty provisions of that Act. (6) Debtor information will also be provided to the United States Justice Department for litigation purposes or further administrative action in connection with debt collection. (7) Information from this sytsem may be disclosed to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals (In that event, EPA will comply with the Computer Matching and Privacy Protection Act of 1988 and appropriate Office of Management and Budget guidelines). The term "debtor information" as used in the proposed routine uses for this system is limited to the individual's name, address, social security number, and other information necessary to identify the individual; the amount, status and history of the claim; and the agency or program under which the claim arose.

Other proposed routine uses for the Accounts Receivable Module, although not directly related to debt collection activities, are compatible with the purposes for which information in this system is collected. These uses are appropriate and necessary to carry out EPA's financial management responsibilities.

Section 2 of the Debt Collection Act of 1982, codified at 5 U.S.C. 552a(b)(12), is an amendment to the Privacy Act which permits disclosures of delinquent debtor information (as described above) to consumer reporting agencies for the purpose of making delinquency and default data available to private sector grantors of credit. Such disclosures will be made only when a claim is overdue, and then only after the debtor has been afforded the due process rights specified in the Debt Collection Act of 1982.

Although such disclosures are authorized as an exception to the Privacy Act rather than as a routine use, EPA is publishing notice of these disclosures at the end of the listing of routine uses in accordance with the guidance of the Office of Management and Budget.

Date: July 10, 1989.

Charles L. Grizzle,

Assistant Administrator for Administration and Resources Management.

EPA-25

System Name

Accounts Receivable Module EPA/FMD-EPA-25.

Security Classification

None.

System Location

All EPA Servicing Finance Offices. These are:

Headquarters—401 M St., SW., Washington, DC 20460
Region 1—John F. Kennedy Bldg. R2203, Boston, MA 02203
Region 2—26 Federal Plaza, New York, NY 10278
Region 3—841 Chestnut Street, Philadelphia, PA 19107
Region 4—345 Courtland Street, N.E., Atlanta, GA 30365
Region 5—230 South Dearborn St., Chicago, IL 60604
Region 6—1445 Ross Avenue, Suite 1200, Dallas, TX 75270
Region 7—726 Minnesota Avenue, Kansas City, KS 66101
Region 8—999 18th St., Suite 500, Denver, CO 80202-2405
Region 9—215 Freemont St., San Francisco, CA 94105
Region 10—1200 6th Avenue, Seattle, WA 98101
Cincinnati Financial Office—26 West Martin Luther King Dr., Cincinnati, OH 45268
Las Vegas Financial Office—P.O. Box 18418, Las Vegas, NV 89114
Research Triangle Park, North Carolina (MD-20) 27711

Categories of Individuals Covered by the System

Individuals who owe the Environmental Protection Agency monies. This includes, but is not limited to, monies owed for refunds, penalties, travel advances, Interagency Agreements, or Freedom of Information Requests. This system also contains information on corporations and other entities who are in debt to EPA. Records on these corporations and other entities are not subject to the Privacy Act.

Categories of Records in the System

This system of records contains personal, identifying information such as names, addresses, and Social Security numbers of persons indebted to EPA. The system also contains information about the nature of the debt or claim, the amount owed, the history status of the debt, and information which relates to and documents efforts to collect debts owed the Agency.

Authority for Maintenance of the System

35 U.S.C. 3512; 5 U.S.C. 5514; 5 U.S.C. 552a(b)(12); 31 U.S.C. 3702, 3711, and 3716—3718; Executive Order 9397.

Purpose

Records in this system will be used primarily to create a record of, and to track, all accounts receivable and to assist EPA in collecting debts owed the Agency.

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses

Information in this system may be disclosed for routine uses as follows:

1. To a Member of Congress or a congressional office in response to an inquiry from that Member or office made at the request of the individual to whom the record pertains.

2. To EPA contractors who have been engaged to assist EPA in the performance of activities related to this system of records and who need to have access to the records in order to perform under the contract. Contractors are required to maintain the records in accordance with the requirements of the Privacy Act.

3. To a Federal agency which has requested information relevant to its decision in connection with the hiring or retention of an employee; the reporting of an investigation on an employee; the letting of a contract; or the issuance of a security clearance, license, grant, or other benefit.

4. To a Federal, State or local agency where necessary to enable EPA to obtain information relevant to an EPA decision concerning the hiring or retention of an employee; the letting of a contract, or the issuance of a security clearance, license, grant, or other benefit.

5. To an appropriate Federal, State, local or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation or order, where there is an indication of a violation or potential violation of the statute, rule, regulation or order and the information disclosed is relevant to the matter.

6. To the Department of Justice to the extent that each disclosure is compatible with the purpose for which the record was collected and is relevant and necessary to litigation or anticipated litigation in which one of the following is a party or has an interest: (a) EPA or any of its components (b) an EPA employee in his or her official capacity, (c) an EPA employee in his or her individual capacity where the Department of Justice is representing or considering representation of the employee, or (d) the United States where EPA determines that the litigation is likely to affect the Agency.

7. In a proceeding before a court, other adjudicative body or grand jury, or in an administrative or regulatory proceeding, to the extent that each disclosure is compatible with the purpose for which the records were collected and is relevant and necessary to the proceeding in which one of the following is a party or has an interest: (a) EPA or any of its components, (b) an EPA employee in his or her official capacity, (c) an EPA employee in his or her individual capacity where the Department of Justice is representing or considering representation of the employee, or (d) the United States where EPA determines that the litigation is likely to affect the Agency. Such disclosures include, but are not limited to, those made in the course of presenting evidence, conducting settlement negotiations, and responding to subpoenas and requests for discovery.

8. To representatives of the General Services Administration and the National Archives and Record Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

9. To the General Accounting Office, Office of Management and Budget, and Department of Treasury for the purposes of carrying out EPA's financial management responsibilities.

10. The following disclosures of information in this system may be made in order to help collect debts owed the EPA.

a. To provide information to the Internal Revenue Service in order to obtain taxpayer mailing addresses to locate such taxpayers for the purpose of collecting debts owed the EPA.

b. To provide taxpayer mailing addresses obtained from the IRS to agents of EPA in order to locate the taxpayer for debt collection purposes. The Debt Collection Act of 1982 prohibits the disclosure of such mailing addresses to consumer reporting agencies except for the purpose of

having such agencies prepare reports on the taxpayer for use by Federal agencies. Accordingly, EPA will disclose this information to consumer reporting agencies only to obtain credit reports to help collect debts owed the EPA.

c. To provide debtor information to consumer reporting agencies in order to obtain credit reports for use by EPA for debt collection purposes.

d. To provide debtor information to other Federal agencies to effect salary and administrative offsets.

e. To provide debtor information to debt collection agencies under contract to EPA to help collect debt owed EPA. Such agencies will be required to comply with the Privacy Act and their agents will be made subject to the criminal penalty provisions of that Act.

f. To provide debtor information to the Justice Department for litigation or further administrative action in connection with debt collection.

g. To provide debtor information to the Internal Revenue Service for the purpose of reporting discharged debts declared uncollectable as a result of defaulted obligations.

h. To provide information as necessary to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals. (In that event, EPA will comply with the Computer Matching and Privacy Protection Act of 1988 and appropriate Office of Management and Budget guidelines.)

Note: The term "debtor information" as used in the routine uses above is limited to the individual's name, address, social security number, and other information necessary to identify the individual; the amount, status and history of the claim; and the agency or program under which the claim arose.

Disclosure to Consumer Reporting Agencies

Disclosure to consumer reporting agencies: Pursuant to 5 U.S.C. 552a(b)(12), disclosure may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

Policies and Procedures for Storing, Retrieving, Retaining, and Disposing of Records in the System

Storage

Tapes, disks, printouts, and other hard copies. Paper records maintained by each Servicing Finance Office (located in 14 offices nationwide). Computer tapes and disks maintained in Research Triangle Park—National Computer Center, N.C.

Retrievability

Records are indexed by an account receivable control number (a number assigned to each "incoming" account receivable). Individual records can be accessed by using a cross-reference table which links accounts receivable control numbers with debtor names and associated debtor information.

Safeguards

Records are accessible only to authorized EPA personnel. For automated records, only authorized EPA personnel with proper passwords may access records. Other records and computer terminals are maintained in offices which are locked during non-duty hours.

Retention and Disposal

Manual records are maintained until the indebtedness is paid, at which time they are disposed of in a manner which ensures confidentiality of the information. Automated records are purged annually for paid debts.

System Manager(s) and Address

Director, Financial Management Division (PM–226F), EPA, 401 M Street SW., Washington, DC 20460.

Notification Procedure

To obtain information on whether this system contains information on you, contact the System Manager, in writing, at the address listed above. The request should be notarized to verify your identify. You should include your full name, current address, telephone number, and Social Security Number (SSN). Your SSN will be used only to verify your identity. Providing your SSN is voluntary, but your failure to do so will not effect your rights, although it may delay the verification process. The System Manager may require other information from you.

Record Access Procedures

To obtain a copy of a record pertaining to you, follow the Notification Procedure described above. In addition, specify the records being sought.

Contesting Record Procedures

To request a correction or amendment of a record pertaining to you, follow the Notification Procedure described above. In addition, you should identify the record which you wish corrected and the corrective action sought, and provide supporting justification for the correction.

Record Source Categories

Individuals covered by the system, supervisors, consumer reporting agencies, debt collection agencies, the Department of the Treasury and other Federal agencies.

Systems Exempted From Certain Provisions of the Act

None.

[FR Doc. 17486 Filed 7–25–89; 8:45 am]
BILLING CODE 6560–50–M

[FRL–3620–7]

National Pollutant Discharge Elimination System (NPDES) General Permit for Construction Related Activities in South Dakota

AGENCY: U.S. Environmental Protection Agency (EPA), Region VIII

ACTION: Notice of intent to reissue general permit.

SUMMARY: Region VIII of the U.S. Environmental Protection Agency (EPA) is hereby giving notice of its tentative determination to reissue the National Pollutant Discharge Elimination System (NPDES) general permit for the Construction Related Activities of Excavation Dewatering and Hydrostatic Testing conducted within the State of South Dakota, NPDES permit Number SDG–070000. The general permit provides a more efficient means of granting discharge authorization for these facilities. This general permit was originally issued on August 10, 1984, and notice of the permits' issuance published in the Federal Register on October 19, 1984 (See 49 FR 41104). The proposed reissued permit will continue the established effluent requirements and standards of the previous permit. These requirements and standards are based on technology and water quality considerations, prohibitions, Best Management Practices, and other conditions applicable to the types of waste waters generated by construction facilities. Persons seeking discharge authorization under the general permit are required to submit a request for discharge approval prior to their commencement of such discharge.

DATES: Public comment on this proposal must be on or before August 25, 1989.

ADDRESS: Public comments should be sent to: Ms. Carol L. Campbell (8WM–C), Acting Chief, Compliance Branch, Water Management Division, U.S. Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado 80202–2405.

FOR FURTHER INFORMATION CONTACT: Mr. Marshall Fischer, Region VIII at the above-listed address or telephone (303) 293–1592 or FTS 564–1592. Copies of the proposed permit and Statement of Basis and Fact Sheet will be provided upon request.

SUPPLEMENTARY INFORMATION:

A. Background

Section 301(a) of the Clean Water Act (CWA) provides that the discharge of pollutants is unlawful except in accordance with an NPDES permit. South Dakota is a non-NPDES state in which EPA retains NPDES permit issuance and primary enforcement authority. Under EPA's regulations at 40 CFR 122.28, EPA may issue a single general permit to point sources within the same geographic area if the regulated sources:

(1) Are involved in the same or substantially similar operations;

(2) Generate and discharge the same types of waste;

(3) Require the same permit effluent limitations and/or operating conditions;

(4) Require similar monitoring requirements; and,

(5) In the opinion of the NPDES Program Director, are more appropriately controlled under a general permit than an individual permit.

As in the case of any individual permit issued under the NPDES program, violation of any condition of a general permit constitutes a violation of the Clean Water Act and is fully enforceable under section 309 of the Act.

Any owner or operator authorized by the general permit may be excluded from the general permit by applying for an individual permit as provided for by 40 CFR 122.28(b).

B. Construction Related Discharges

The proposed permit covers two (2) principal types of construction related discharges, excavation dewatering and hydrostatic testing of pipelines or vessels. The discharge activities may be done in conjunction or performed separately. Excavation dewatering is often necessary because of groundwater or runoff intrusion at a construction site. Such waters potentially contain elevated suspended solids and oil and grease. Improper pumping or draining of these waters would further aggravate the pollutant impacts.

Hydrostatic testing of pipelines and/or vessels is normally conducted to determine the structural integrity of the material and installation. Relatively clean water (i.e., raw river water, groundwater, potable water, etc.) is typically used as the test fluid. The pollutant potential for such related discharges results mainly from improper discharge practices (e.g., those causing stream channel scouring). Depending on the source of the test fluid, other pollutants such as suspended solids may also be of concern.

C. Economic Impact

EPA has reviewed the effect of Executive Order 12291 on this proposed general permit and has determined the proposal not to be major under that Order. This proposal was submitted to the Office of Management and Budget for review as required by the Executive Order. Any comments from OMB to EPA and any EPA responses to those comments will be made available for public inspection at the U.S. Environmental Protection Agency, Compliance Branch, Water Management Division, Denver Place, Suite 500, 999 18th Street, Denver, Colorado 80202–2405.

D. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in these draft general NPDES permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of these permits have already been approved by the Office of Management and Budget under submissions made for the Clean Water Act's NPDES permit program.

E. The Regulatory Flexibility Act

After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that these general permits will not have a significant impact on a substantial number of small entities. Moreover, they reduce a significant administrative burden on regulated sources.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 89–17487 Filed 7–25–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: New.

Title: Hazard Mitigation Planning.

Abstract: The Disaster Relief Act of 1974, as amended by the Disaster Relief and Emergency Assistance Amendments of 1988 require State and local governments receiving Federal disaster assistance to evaluate the natural hazards in the disaster area, and to take steps to mitigate these hazards. In order to fulfill these requirements, State and local governments must prepare and implement a hazard mitigation plan or plan update. Plans will identify measures that will reduce potential future losses to natural disasters, and the subsequent need for Federal disaster assistance. Plans or updates must be submitted to the appropriate FEMA Regional Director within 180 days of a disaster declaration.

Type of Respondents: State and local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 1.

Number of Respondents: 1.

Estimated Average Burden Hours per Response: 1.

Frequency of Response: Annually or after a disaster declaration.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to the FEMA Clearance Officer at the above address; and to Pamela Barr, (202) 395–7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Date: July 19, 1989.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 89–17465 Filed 7–25–89; 8:45 am]

BILLING CODE 6718–01–M

[FEMA–837–DR]

Major Disaster and Related Determinations; Connecticut

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Connecticut (FEMA–837–DR), dated July 18, 1989, and related determinations.

DATED: July 18, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

NOTICE: Notice is hereby given that, in a letter dated July 18, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288, as amended by Pub. L. 100–707), as follows:

I have determined that the damage in certain areas of the State of Connecticut, resulting from thunderstorms, tornadoes, and severe winds on July 10, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288, as amended by Public Law 100–707. I, therefore, declare that such a major disaster exists in the State of Connecticut.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under PL 93–288, as amended by PL 100–707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of Section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Albert A. Gammal, Jr. of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Connecticut to have been affected adversely by this declared major disaster:

The counties of Litchfield and New Haven for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Robert H. Morris,

Acting Director, Federal Emergency Management Agency.

[FR Doc. 89–17461 Filed 7–25–89; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–834–DR]

Amendment to Notice of a Major Disaster Declaration; Kentucky

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky (FEMA–834–DR), dated June 30, 1989, and related determinations.

DATED: July 20, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

NOTICE: The notice of a major disaster for the Commonwealth of Kentucky, dated June 30, 1989, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 30, 1989:

Floyd County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 89–17462 Filed 7–25–89; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–835–DR]

Amendment to Notice of a Major Disaster Declaration; Louisiana

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA–835–DR), dated July 18, 1989, and related determinations.

DATED: July 20, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3614.

NOTICE: The notice of a major disaster for the State of Louisiana, dated July 18, 1989, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 18, 1989:

The parishes of Bienville, Bossier, Jefferson Davis, Lafayette, St. Landry, Vermilion, Vernon, and Webster for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 89–17463 Filed 7–25–89; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–836–DR]

Major Disaster and Related Determinations; Texas

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–836–DR), dated July 18, 1989, and related determinations.

DATED: July 18, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3614.

NOTICE: Notice is hereby given that, in a letter dated July 18, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288, as amended by Pub. L. 100–707), as follows:

I have determined that the damage in certain areas of the State of Texas, resulting from Tropical Storm Allison occurring June 25 through July 7, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93–288, as amended by Pub. L. 100–707. I, therefore, declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. You are also authorized to provide Public Assistance in the affected areas, if requested and necessary. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288, as amended by Pub. L. 100–707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implemention of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert D. Broussard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster:

The counties of Hardin, Harris, Jasper, Jefferson, Liberty, Newton, Orange, San Jacinto, and Tyler for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Robert H. Morris,

Acting Director, Federal Emergency Management Agency.

[FR Doc. 89-17464 Filed 7-25-88; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

Senior Executive Service—Performance Review Board Updated Membership

In accordance with Title IV of the Civil Service Reform Act of 1978, the Federal Home Loan Bank Board hereby gives notice of new memberships on the SES Performance Review Board. Current members are Gregory Rothwell (Chairman), William Fulwider, Frank Haas, Karl Hoyle, Eugene Katz, Dennis Pittman and Julie Williams.

FOR FURTHER INFORMATION CONTACT: Sue A. Rendleman, Director of Personnel, Federal Home Loan Bank Board, (202) 906-6050

John Buckley, Jr.,

Secretary, Federal Home Loan Bank Board.

[FR Doc. 89-17493 Filed 7-25-89; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

July 20, 1989.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulation on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822)

OMB Desk Officer—Gary Waxman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7340).

Final Approval Under OMB Delegated Authority of the Extension, Without Revision, of the Following Report

Report title: Government Securities Dealers Reports.

Agency form number: FR 2004 a, b, c, and d.

OMB Docket Number: 7100-0003.

Frequency: Weekly, Daily, Semi-monthly.

Reporters: Primary dealers in U.S. government securities.

Annual reporting hours: 33,472.

Estimated average hours per response: 1.10 to 1.33.

Estimated number of respondents: 43. Small businesses are not affected.

General Description of Report

This information collection is voluntary (12 U.S.C. 248(a)(2) and 353-359(a)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

This group of reports submitted by government securities dealers is used to collect daily positions, daily transactions, weekly financings, and semi-monthly futures, forwards, and options data from the primary dealers in U.S. Treasury securities. The data are used to assist in the appraisal of the financial health of reporting dealers, the soundness of their trading practices, and the adequacy of their market-making in all segments of the market.

Board of Governors of the Federal Reserve System, July 20, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-17428 Filed 7-25-89; 8:45 am]

BILLING CODE 6210-01-M

Bankers Trust of Alabama, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than August 17, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Bankers Trust of Alabama, Inc.,* Madison, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Bankers Trust of Madison, Madison, Alabama.

Board of Governors of the Federal Reserve System, July 20, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-17426 Filed 7-25-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 18, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Marion E. Lowery,* Franklin, Tennessee, to retain 29.12 percent of the voting shares of Citizens Corporation, Smithville, Tennessee, and thereby indirectly acquire Citizens Bank, Smithville, Tennessee.

Board of Governors of the Federal Reserve System, July 20, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-17427 Filed 7-25-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Meeting of the National Advisory Child Health and Human Development Council

Pursuant to Pub. L. 92-463, notice is hereby given of meeting of the National Advisory Child Health and Human Development Council, September 18-19, in Building 1, Wilson Hall, National Institutes of Health, Bethesda, Maryland, and the meeting of the Subcommittee on Planning on September 18 from 8:30 a.m. to 9:30 a.m. in Building 31, Room 2A03.

The Council meeting will be open to the public on September 18 from 9:30 a.m. until 5:00 p.m. The agenda includes a report by the Director, NICHD, and a presentation by the Reproductive Sciences Branch. The meeting will be open on September 19 immediatley following the review of applications if any policy issues are raised which need further discussion. The Subcommittee meeting will be open on September 18 from 8:30 a.m. to 9:30 a.m. to discuss program plans and the agenda for the next Council meeting. Attendance by the public will be limited to space available.

In accordance with the provision set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on September 19 from 8:30 a.m. to completion of the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Linda Hall, Council Secretary, NICHD, Executive Plaza North, Room 520, National Institutes of Health, Bethesda, Maryland 20892, Area Code 301, 496-1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catlog of Federal Domestic Assistance Program Nos. 13.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health)

Dated: July 14, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-17415 Filed 7-25-89; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Neurological Disorders and Stroke; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the Committees of the National Institute of Neurological Disorders and Stroke.

These meetings will be open to the public to discuss program planning, program accomplishments and special reports or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552(b)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of meetings, rosters of committee members, and other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: National Advisory Neurological Disorders and Stroke Council and Its Planning Subcommittee

Date: October 4, 1989 (Planning Subcommittee)

Place: National Institutes of Health, Building 31, Conference Room 8A28, 9000 Rockville Pike, Bethesda, Maryland 20892

Open: 1 p.m.-3 p.m.

Closed: 3 p.m.-5 p.m.

Dates: October 5-6, 1989 (Council)

Place: National Institutes of Health, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892

Open: October 5, 9 a.m-1 p.m.

Closed:

October 5, 1 p.m.—recess
October 6, 8:30 a.m.—adjournment

Executive Secretary: John C. Dalton, Associate Director for Extramural Activities, NINDS, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9248.

Name of Committee: Neurological Disorders Program Project Review B Committee

Dates: October 26-28, 1989

Place: Sheraton Phoenix Hotel, 111 North Central Avenue, Phoenix, Arizona 85004

Open: October 26, 8 a.m.-8:30 a.m.

Closed:

October 26, 8:30 a.m.—recess
October 27, 8:30 a.m.—recess
October 28, 8 a.m.—adjournment

Executive Secretary: Dr. A. Beau White, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223.

Name of Committee: Neurological Disorders Program Project Review A Committee

Dates: October 27-29, 1989

Place: Sheraton Phoenix Hotel, 111 North Central Avenue, Phoenix, Arizona 85004

Open: October 27, 8 a.m.-8:30 a.m.

Closed:

October 27, 8:30 a.m.—recess
October 28, 8:30 a.m.—recess
October 20, 8 a.m.—adjournment

Executive Secretary: Dr. Herbert Yellin, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: July 14, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-17416 Filed 7-25-89; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-89-2023]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for

review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submited to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: July 18, 1989.

John T. Murphy,

Director Information Policy and Management Division.

Proposal: Disclosure of Social Security Numbers and Employer Identification Numbers by Applicants and Participants in HUD Programs (FR–2501).

Office: Housing, Public and Indian Housing, and Community Planning and Development.

Description of the Need for the Information an its Proposed Use: Section 165 of the Housing and Community Development Act of 1987 (Pub. L. 100–242; approved February 5, 1988) authorizes HUD to *require* applicants and participants in any HUD program involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, to disclose their Social Security numbers or Employee Identification numbers to HUD.

Form Number: HUD–50059, 50058, 92068F, 9539, 93101, 2530, 92900, and 92013.

Respondents: Individuals or Households, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Certification of Compliance	2,171,256		5		.0252		273,578
Tenant Data Summary	2,640,000		5		.0252		332,640
Request for Financial Info.	76,000		1		.0252		1,915
Request for Occupied Conveyance	4,600		8.6		.0252		997
Recertification of Family Income	150,000		1.2		.0252		4,725
Previous Participation Cert.	9,000		1		.0252		227
Application for HUD/FHA Insured Mortgages	1,603,334		1		.0252		40,404
Section 202 Applications	1,300		2		.0252		66
Section 312 Loan Program	510		13.1		.0252		264

Total Estimated Burden Hours: 654,816.

Status: Revision.

Contact: Dennis A. Raschka, HUD, (202) 426–6493; John Allison, OMB, (202) 395–6880.

Date: July 18, 1989.

[FR Doc. 89–17482 Filed 7–25–89; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–09–7122–09–D086]

Intent to Prepare an Environmental Impact Report Statement; North County Landfill Project, San Diego County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) and the County of San Diego, California, will prepare a joint Federal-State Environmental Impact Report/Statement (EIR/S) for a proposed Class III landfill in the northern portion of San Diego County.

Four alternative sites are being considered for the new landfill. One of the sites, Blue Canyon, includes public lands administered by the BLM. The sites' names and locations are as follows:

Blue Canyon. The Blue Canyon site is located just southwest of State Highway 79, about seven miles northwest of the community of Warner Springs.

Trujillo Canyon. The Trujillo Canyon site is located two to four miles north of the community of Pala.

Aspen Road. The Aspen Road site is located west of I–15 and approximately four miles southeast on the town of Fallbrook.

Gregory Canyon. The Gregory Canyon site is located about three miles east of I–15 and 2 miles southeast of Pala. It opens out to the San Luis Rey River.

The County of San Diego proposes to open a new landfill site in northern San Diego County to accommodate municipal solid wastes generated by

residents and businesses throughout the north county. A new site is needed because the San Marcos Landfill, which receives 95 percent of the total refuse landfilled in the area, will reach maximum capacity by 1991. If this landfill cannot be expanded, it will close. The design of the alternative landfills will be based on a detailed evaluation of environmental, geologic, and hydroglogic constraints of each alternative site. The public is invited to participate in the environmental process beginning with the identification of environmental issues.

DATE: Comments relating to the identificaiton of environmental issues will be accepted through August 28, 1989.

ADDRESS: Send comments to BLM, Palm Springs-South Coast Resource Area, 400 S. Farrell Drive, Suite B–205, Palm Springs, California 92262.

FOR FURTHER INFORMATION CONTACT: Russell L. Kaldenberg, Area Manager Palm Springs-South Coast Resource Area, (619) 323–4421.

SUPPLEMENTARY INFORMATION: The preliminary issues for the EIR/S include the following: (1) Threatened and endangered and other sensitive species, (2) Historic and prehistoric cultural resources, (3) Traffic congestion, (4) Visual impacts to local communities and scenic highways, (5) Air quality effects associated with truck exhaust and fugitive dust, (6) Geotechnical concerns including faults, groundwater, and the availability of cover material, (7) Economic effects on property values, and (8) Growth inducement. These preliminary issues are subject to change as a result of public input.

The EIR/S will be developed by an interdisciplinary team composed of specialists in wildlife (including threatened and endangered animals), range and vegetation (including threatened and endangered plants), cultural resources, visual resources, geology, soil, water, air, and economics/demographics.

Public participation will be part of the environmental process. It is intended that all interested or affected parties be involved. The environmental team will seek public input by direct mailings, media coverage, person-to-person contacts, and coordination with local, state, and other Federal agencies. Public meetings to obtain input on the issues have been held at the following locations:

Warner Springs, California
April 25, 1989, 7:30 p.m.—Warner Union School Auditorium
Pauma Valley, California
April 26, 1989, 7:00 p.m.—Pauma Valley Community Center
Fallbrook, California
April 27, 1989, 7:00 p.m.—Maie Ellis School, Cafetorium

No additional public meetings are planned prior to the release of the Draft EIR/S. Comments on the Draft EIR/S will be accepted after its release. This will include both written comments and comments given at public meetings. Notice of these meetings will be given in local papers and the Federal Register.

Dated: July 19, 1989.

H.W. Riecken,

Acting District Manager.

[FR Doc. 89–17421 Filed 7–25–89; 8:45 am]

BILLING CODE 4310–40–M

[UT–050–09–4320–10]

Grazing Board Meeting and Tour

AGENCY: Bureau of Land Management, Interior.

ACTION: District Grazing Advisory Board meeting.

SUMMARY: The Richfield District Grazing Advisory Board will hold a meeting on August 23, 1989 at 10:00 a.m., in the BLM District Office, 150 East 900 North, Richfield, Utah. There will be a tour on the following day in the Henry Mountain Resource Area (HMRA) leaving from the District Office at 8:00 a.m. The agenda for the meeting will be:

1. Discussion concerning the drought conditions.
2. Riparian management.
3. FY 90 projects.
4. Wild horse update.
5. Update on proposed allotment changes.
6. Follow-up on the East Fish Springs Allotment.
7. Report on progress of the volunteer program.

The meeting is open to the public and interested persons may make oral statements to the Council between 2:00 p.m. and 3:00 p.m. or file written comments for the Board's consideration. Anyone wishing to make an oral statement, must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701.

Date: July 17, 1989.

Jerry Goodman,

District Manager, Richfield District Office.

[FR Doc. 89–17446 Filed 7–25–89; 8:45 am]

BILLING CODE 4310–DQ–M

[MT–060–09–4212–13; MTM–75701]

Realty Action: Private Exchange—Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: The Bureau of Land Management proposes to exchange public land for private land with William and Lela French. This proposed exchange involves only the surface estate. The public and private lands are in Phillips County.

SUMMARY: The public will gain private lands with wetlands and wildlife habitat for piping plover, upland birds, antelope and mule deer. Consolidation of public land will occur which allows for better range management. Disposal of the public lands is in conformance with the Phillips Management Framework Plan. Disposal of public lands with relatively low public value will help meet the management goals for the area where the public will gain private land. This exchange is in the public interest. The Bureau of Land Management advised state and local officials about the proposed exchange.

The following described public lands are suitable for disposal by exchange under section 206 of the Federal Land Management Act of 1976, 43 U.S.C. 1716.

Principal Meridian Montana

T. 24 N., R. 31 E.,
Section 1, Lots 1, 2, 3, 4, S½S½;
Section 3, SW¼SE¼;
Section 10, W½NE¼, NW¼, NW¼SW¼, NW¼SE¼;
Section 11, E½NE¼;
Section 12, All;
Section 13, E½NW¼;
T. 24 N., R. 32 E.,
Section 6, Lots 3, 4, 5, SE¼SW¼;
Section 7, Lots 1, 2, 3, 4, E½W½;
T. 25 N., R. 31 E.,
Section 25, SE¼NE¼;
T. 25 N., R. 32 E.,
Section 30, Lot 2, SW¼NE¼, SE¼NW¼;
T. 26 N., R. 30 E.,
Section 25, N½SW¼;
T. 26 N., R. 31 E.,
Section 30, Lots 3, 4, E½SW¼;
T. 29 N., R. 29 E.,
Section 12, All;
Section 13, N½NW¼;
T. 29 N., R. 30 E.,
Section 18, SE¼; totaling 3,152.45 acres.

The United States will exchange this public land to acquire the following described private land:

Principal Meridian Montana

T. 25 N., R. 30 E.,
Section 6, S½NE¼;
T. 25 N., R. 31 E.,
Section 4, Lots 1, 2, S½NE¼, SE¼;
T. 26 N., R. 30 E.,
Section 14, S½;

Section 15, SE¼;
Section 20, SW¼SW¼;
Section 22, N½, SE¼;
Section 23, N½;
Section 26, S½SE¼;
Section 29, E½NW¼, NE¼SW¼;
T. 26 N., R. 31 E.,
Section 27, SW¼;
Section 29, N½;
Section 30, NE¼;
Section 33, S½NE¼, N½S½, S½SE¼;
Section 34, E½W½; total 3,039.41 acres.

DATES: Interested parties may submit comments to the Bureau of Land Management on or before September 11, 1989. The State Director will weigh adverse comments. The State Director may vacate or change this notice. Without any objections this notice will become the final determination of the Department of Interior.

FOR COMMENTS AND FURTHER INFORMATION CONTACT: Submit your comments on this proposed exchange to the address shown below. Information related to the exchange, including the land report, is available at the same address: Phillips Resource Area, Box B, Malta, MT 59457.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws. This notice also segregates from the mining laws, but not from exchange under section 206 of the Federal Land Policy and Management Act of 1976. The segregation will last for two years from the date of publication of this notice. This exchange is subject to:

1. A reservation to the United States of a right-to-way for ditches or canals under 43 U.S.C. 945.

2. The reservation to the United States of all federal minerals will occur.

3. The following rights-of-way of record: Big Flat Electric Coop. Inc., MTM–57527 and MTM–58709; Triangle Telephone Coop. Inc., MTM–42864 and George L. Partridge, MTM–040449.

4. An equalization payment is not necessary because the appraised values are equal.

5. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

6. The proposed completion date is September, 1989.

Wayne Zinne,

District Manager.

Date: July 18, 1989.

[FR Doc. 89–17494 Filed 7–25–89; 8:45 am]

BILLING CODE 4310-DN-M

Fish and Wildlife Service

Availability of Draft Recovery Plan for Eleven Central Florida Scrub Plants for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft recovery plan for eleven plant species of scrub vegetation in central Florida. They occur on private and state-owned lands, principally in the area from Lake Wales to Lake Placid in Polk and Highlands Counties, central Florida. At least one of the plant species presently occurs in each of these additional Florida counties: Brevard, Charlotte, Hardee, Lake, Orange, Osceola. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before September 25, 1989 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may examine a copy during normal business hours at the U.S. Fish and Wildlife Service, Jacksonville Field Office, 3100 University Boulevard South, Jacksonville, FL 32216 (Phone 904/791–2580) or at the Vero Beach Field Office, 1360 U.S. 1, South, Suite 5, Vero Beach, Florida 32960 (Phone 407/562/3909). A copy of the plan may be obtained at cost from the Fish and Wildlife Reference Service, 5430 Grosvenor Lane, Suite 110, Bethesda, MD, 20814 (Phone 301/492–6403 or 1–800–582–3421). Written comments and materials regarding the plan should be addressed to the U.S. Fish and Wildlife Service, Jacksonville Field Office (see address above).

FOR FURTHER INFORMATION CONTACT: David Martin, at the Jacksonville Field Office address.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, criteria for recognizing the recovery levels for downlisting or delisting them, and initial estimates of times and costs to implement the recovery measures.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The eleven central Florida scrub plants covered by this draft plan are associated with scrub ecosystems of inland central Florida, principally in a hilly area known as the Lake Wales Ridge from the city of Lake Wales (Polk County) south to Lake Placid and Venus (Highlands County). The eleven plants are: *Bonamia grandiflora* (Florida bonamia), threatened; *Chionanthus pygmaeus* (pygmy fringe tree), endangered; *Eryngium cuneifolium* (a snakeroot), endangered; *Hypericum cumulicola* (Highlands scrub hypericum), endangered; *Liatris ohlingerae* (scrub blazing star), proposed endangered; *Lupinus aridorum* (scrub lupine), endangered; *Paronychia chartacea* (papery whitlowwort), threatened; *Polygonella basiramia* (a wireweed), endangered; *Prunus geniculata* (scrub plum), endangered; *Warea carteri*, Carter's mustard (endangered); and *Ziziphus celata* (proposed endangered). All of these plants occur in Highlands and/or Polk counties. Scrub lupine also occurs in western Orange County. Florida bonamia is also presently known to occur in Charlotte, Hardee, Lake, and Marion counties. It formerly occurred in Manatee, Sarasota, and Volusia counties. Pygmy fringe tree and scrub plum occur in Lake County near Clermont in remnants of longleaf pineland. Carter's mustard occurs near Melbourne, Brevard County and formerly occurred in Miami, Dade County.

The recovery plan focusses on protecting the habitat of the eleven plants: Scrub dominated by sand pine, shrubby evergreen oaks, and/or scrub hickory. Scrub vegetation is rapidly being developed for citrus groves and housing. Carefully selected tracts must be protected within the next several

years. The best method of protecting sites is through purchase by government or private conservation organizations because attempts at protection through regional and county planning and establishment of conservation easements is likely to be ineffectual. Protected scrub tracts must be managed for the benefit of these plants and for native animals including the sand skink and the blue-tailed mole skink (both threatened) and the Florida scrub jay (threatened). Appropriate management will usually include prescribed fire.

Several species, particularly scrub lupine, occur at only a few sites. Conservation of these sites (including expressway rights-of-way) will be difficult and should be supplemented by garden propagation and establishment of new populations on protected sites. Unfortunately, scrub lupine appears very difficult to propagate, so the species is in great danger of extinction. The Agency Review Draft recovery plan is currently being circulated for comment to governmental bodies, scientists, and conservation organizations.

Public Comments Solicited

The Service solicits written comments on the recovery plan. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: July 18, 1989.

David J. Wesley,

Field Supervisor.

[FR Doc. 89-17445 Filed 7-25-89; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations. Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5541, Block 92, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Cocodrie, Louisiana.

DATE: The subject DOCD was deemed submitted on July 17, 1989. Comments must be received within 15 days of the publication date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert, Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: July 18, 1989.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 89-17447 Filed 7-25-89; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-289]

Certain Concealed Cabinet Hinges and Mounting Plates; Commission Decision Not To Review an Initial Determination Terminating the Investigation With Prejudice as to U.S. Letters Patent 4,075,735 With Respect to Respondents Agnostino Ferrari, S.P.A and IUSA Manufacturing Corp.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 95) issued by the presiding administrative law judge (ALJ) terminating the above-captioned investigation with prejudice as to U.S. Letters Patent 4,075,735 (the '735 patent) with respect to respondents Agostino Ferrari, S.p.A. (Ferrari) and IUSA Manufacturing Corporation (IUSA).

ADDRESSES: Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Calvin Cobb, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1103.

Hearing impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202-252-1810.

SUPPLEMENTARY INFORMATION: Julius Blum, Inc. (Blum), a U.S. assembler of certain patented concealed hinges and mounting plates, filed a complaint with the Commission on November 23, 1988. The Commission instituted an investigation of Blum's complaint and issued a notice of investigation that was published in the **Federal Register** on December 28, 1988, 53 FR 52515.

On June 19, 1989, during a prehearing conference, Blum moved orally to terminate the investigation as to the '735 patent with respect to respondents Ferrari and IUSA. Counsel for respondents Ferrari, Liberty Hardware Manufacturing Corporation, and the Commission investigative attorney made

no objection to the motion. The ALJ issued an ID granting the motion and terminating the investigation with prejudice as to the '735 patent with respect to Ferrari and IUSA.

This action is taken under the authority of section 337 of the Tarriff Act of 1930 (19 U.S.C. 1337) and § 210.53 of the Commission's Interim Rules of Practice and Procedure (53 FR 33070, Aug. 29, 1988).

By order of the Commission.
Issued: July 18, 1989.

Kenneth R. Mason,
Secretary.

[FR Doc. 89-17459 Filed 7-25-89; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 731-TA-435 (Preliminary)]

Certain Steel Pails From Mexico

Determination

On the basis of the reocrd [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Mexico of certain steel pails,[3] provided for in subheadings 7310.21.00 and 7310.29.00 of the Harmonized Tariff Schedule of the United States (previously reported under item 640.30 of the Tariff Schedules of the United States), that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On May 31, 1989, a petition was filed with the Commission and the Department of Commerce by counsel for the Pail Producers' Committee of the Steel Shipping Container Institute, Union, NJ, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain steel pails from Mexico. Accordingly, effective May 31, 1989, the Commission instituted preliminary antidumping investigation No. 731-TA-435 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishig the notice in the **Federal Register** of June 9, 1989 (54 FR 24764). The conference was held in Washington, DC, on June 20, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 17, 1989. The views of the Commission are contained in USITC Publication 2205 (July 1989), entitled "Certain Steel Pails from Mexico: Determination of the Commission in Investigation No. 731-TA-435 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By Order of the Commission.
Kenneth R. Mason,
Secretary.
Issued: July 18, 1989.

[FR Doc. 89-17460 Filed 7-25-89; 8:45 am]
BILLING CODE 7020-02-M

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[1] The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] Vice Chairman Cass and Commissioner Lodwick dissenting.

[3] For purposes of this investigation, certain steel pails are defined as cylindrical containers of steel of 1 to 7 gallons (3.8 to 26.6 liters) in volume (capacity), with a diameter of 11¼ inches (279 millimeters) or greater and a wall thickness of 29-22 gauge steel (.292-.683 millimeters), presented empty.

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31470]

Central Railroad Co. of Indianapolis—Lease and Operation Exemption—Line of the Norfolk and Western Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 11343-11344 the lease and operation by Central Railroad Company of Indianapolis of 121.82 miles of Norfolk and Western Railway Company railroad lines in Tipton, Howard, Miami, Fulton, Grant and Clinton Counties, IN, subject to employee protective conditions and an Historic Preservation Act compliance condition.

DATES: This exemption is effective on July 31, 1989. Petitions for reconsideration must be filed by August 22, 1989.

ADDRESSES: Send pleadings referring to Finance Docket No. 31470 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioners' representatives:
Carl M. Miller, 407 Broadway, P.O. Box 246, New Haven, IN 46774-0246
and
Thomas W. Ambler, One Commercial Place, Norfolk, VA 23510

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245 [TDD for hearing-impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, Telephone (202) 289-4357/4359. [Assistance for the hearing-impaired is available through TDD services, (202) 275-1721.]

Decided: July 17, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,
Secretary.

[FR Doc. 89-17434 Filed 7-25-89; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 31495]

Depew, Lancaster & Western Railroad Co., Inc.—Lease, Operation and Acquisition Exemption—A Rail Line in Erie County, NY

Depew, Lancaster & Western Railroad Co., Inc. (DL&W), has filed a notice of exemption for the lease, operation, and possible future acquisition of a 3.02-mile line of railroad extending from Lancaster, at milepost 382.540, to the point of switch with Conrail in Depew, at milepost 385.561, in Erie County, NY. DL&W expects to lease the line from the Erie County Industrial Development Agency (ECIDA), which acquired the line from Consolidated Rail Corporation. DL&W is currently negotiating the terms of the lease with ECIDA, including an option to purchase the line in the future. The transaction, which involves the issuance of exempt securities, was expected to be consummated on or about June 30, 1989.

Any comments must be filed with Commission and served on John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, 1700 K Street, NW., Suite 1107, Washington, DC 20006.

Applicant must preserve intact all sites and structures more than 50 years

old until compliance with requirements of Section 106 of the National Historic Preservation Act, 16 U.S.C. 470, is achieved. *See Class Exemption—Acq. & Oper. of R. Lines Under 49 U.S.C. 10901,* 4. I.C.C.2d 305 (1988).[1]

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: July 20, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-17435 Filed 7-25-89; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31497]

The Elk River Railroad, Inc.—Lease, Operation and Acquisition Exemption—Line of CSX Transportation, Inc.; Exemption

The Elk River Railroad, Inc. (TERRI), a non-carrier, has filed a notice of exemption for the lease, operation, and possible future acquisition of 61 miles of CSX Transportation, Inc.'s (CSXT) Elk River Subdivision between milepost 6.2, at or near Gilmer, and milepost 67.2, at or near Hartland, in Gilmer, Braxton, and Clay Counties, WV. TERRI and CSXT have reached an agreement for the lease, including an option to purchase the line segment in the future. The transaction is expected to be consummated on or before August 9, 1989.

Any comments must be filed with the Commission and served on: Robert D. Rosenberg, Slover & Loftus, 1224 Seventeenth Street NW., Washington, DC 20036.

Applicant must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470, is achieved. *See Class Exemption—Acq. & Oper. of R. Lines Under 49 U.S.C. 10901,* 4 I.C.C. 2d 305 (1988).

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: July 21, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-17436 Filed 7-25-89; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31496]

Sisseton Milbank Railroad, Inc.—Operation Exemption—SLA Property Management

Sisseton Milbank Railroad, Inc. (SMR), has filed a notice of exemption to operate over a 38-mile line of railroad owned by SLA Property Management (and currently operated by Sisseton Southern Railway Company, pursuant to Finance Docket No. 31083). The line extends between milepost 0, at Milbank, SD, and milepost 38, at Sisseton, SD. The transaction was to be consummated immediately after the effective date of the exemption, which was July 19, 1989.[1]

Any comments must be filed with the Commission and served on John Grosz, R.R. 2, Box 147, Wilmot, SD 57279.

SMR must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470, is achieved. *See Class Exemption—Acq. & Oper. of R. Lines Under 49 U.S.C. 10901,* 4 I.C.C.2d 305 (1988).

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: July 20, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-17437 Filed 7-25-89; 8:45 am]

BILLING CODE 7035-01-M

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[1] Applicant has certified to the New York State Historic Preservation Officer that no properties qualifying for inclusion in the *National Register of Historic Places* will be transferred as a result of this transaction.

[1] On July 12, 1989, SMR supplemented its previous filing with a map indicating the area to be served and a certification that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier. Thus, for purposes of calculating the effective date of the exemption, the notice is considered filed as of July 12, 1989, when the additional information was provided.

[Docket No. AB-290 (Sub-No. 74)]

Southern Railway—Carolina Division and Southern Railway Co.—Abandonment—Between Branchville and Oakwood and Between Blackville and Springfield in Orangeburg, Bamberg, Barnwell, and Aiken Counties, SC; Findings

The Commission has issued a certificate authorizing Southern Railway—Carolina Division and Southern Railway Company to abandon and discontinue operations over 58.7 miles of connecting rail line extending from Milepost SA-0.0, Branchville, to Milepost SA-49.0, Oakwood, and from Milepost C-161.7, Blackville, to Milepost C-152.0, Springfield, in Orangeburg, Bamberg, Barnwell, and Aiken Counties, South Carolina. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the application no later than 10 days from publication of this Notice. The following notation shall be typed in boldface on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.

Decided: July 20, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-17438 Filed 7-25-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Federal Water Pollution Control Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 3, 1989 a proposed Consent Decree in *United States and State of Ohio* v. *City of Cambridge,* Civil Action No. C2-87-415, was lodged with

the United States District Court for the Southern District of Ohio (Eastern Division). The proposed Consent Decree concerns discharge of pollutants from City of Cambridge's wastewater treatment works to Wills Creek. The proposed Consent Decree requires that the City meet the final water quality limits contained in its National Pollution Discharge Elimination System ("NPDES") Permit. The proposed Decree also obligates the City to fulfill the other obligations imposed by its Permit, including the full scale operation of a pretreatment program with respect to industries that send wastewater to the City's treatment works. The City also must pay a $29,000 civil penalty under the terms of the proposed Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States and State of Ohio* v. *City of Cambridge*, D.J. Ref. 90-5-1-1-2771.

The proposed Consent Decree may be examined at the Offices of the United States Attorney, 85 Marconi Boulevard (Room 200), Columbus, Ohio 43215; at the United States Environmental Protection Agency (Region V), Office of Regional Counsel, 111 West Jackson Street, Third Floor, Chicago, Illinois 60604; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.30 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-17405 Filed 7-25-89; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Under Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, notice is hereby given that on July 13, 1989, a proposed Consent Decree in *United States* v. *The City of Wausau, Wisconsin, et al.*, Case No. 89-C-655-C, was lodged with the United States District Court for the Western District of Wisconsin. The proposed Consent Decree provides for the City of Wausau, Wisconsin and Marathon Electric Manufacturing Corporation to implement an operable unit extraction well near the Old City/Marathon Electric landfill and provides for reimbursement to the United States of $50,000 of the response costs incurred by the United States Environmental Protection Agency under the Comprehensive Environmental Response, Compensation, and Liability Act at the Wausau Groundwater Contamination Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *The City of Wausau, Wisconsin, et al.*, D.J. reference #90-11-2-444.

The proposed Consent Decree may be examined at the office fo the United States Attorney, Western District of Wisconsin, 120 North Henry Street, Madison, Wisconsin 53703, at the Region V office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, 10th Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $14.10 (141 pages at 10 cents per page) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-17406 Filed 7-25-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D-7778]

Withdrawal of the Notice of Proposed Exemption Involving the Forbes Master Trust (the Master Trust) Located in Tacoma, WA

In the **Federal Register** dated April 4, 1989 (54 FR 13584), the Department of Labor (the Department) published a notice of proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1986. The notice of proposed exemption concerned the past and prospective acquisition, sale and redemption of units of beneficial interest in the Master Trust, an open-end, non-bank collective investment fund, by employee benefit plans and individual retirement accounts (the Participating Plans) participating in the Master Trust when the investment manager of such Master Trust is a service provider and a fiduciary with respect to the assets of the Participating Plans in the Master Trust.

By letters dated May 8, 1989 and May 25, 1989, the Department informed the applicant that additional information was needed in order that final action could be taken with respect to the exemption application. As the applicant has failed to respond to the Department's inquiries, the Department has made a final decision to withdraw the notice of pendency of the proposed exemption from the **Federal Register.**

Accordingly, the notice of proposed exemption is hereby withdrawn.

Signed at Washington, DC this 18th day of July 1989.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration.

[FR Doc. 89-17449 Filed 7-25-89; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-7551]

Proposed Amendments to Prohibited Transaction Exemption (PTE) 78-19 Involving Insurance Company Pooled Separate Accounts

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed amendments to PTE 78-19.

SUMMARY: This document contains a notice of pendency before the Department of Labor of proposed amendments to PTE 78-19. PTE 78-19 is

a class exemption that permits insurance company pooled separate accounts, in which employee benefit plans have an interest, to engage in certain transactions, provided specified conditions are met. The proposed amendments, if adopted, would affect, among others, participants, beneficiaries and fiduciaries of plans that invest in the pooled separate accounts, insurance companies, and other persons engaging in the described transactions.

DATES: Written comments and requests for a hearing should be received by the Department on or before September 26, 1989.

Effective Date: If adopted, the proposed amendments to section I(a) of PTE 78–19 would be effective as of July 1, 1988. The proposed amendment to section II(a)(3) would be effective as of January 1, 1975.

ADDRESSES: All written comments and requests for a hearing (preferably at least three copies) should be sent to: Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N–5671, Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Pooled Separate Accounts. The application pertaining to the exemptive relief proposed herein (Application D–7551) and the comment received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 523–8194 (this is not a toll-free number); or Cynthia Hawkins of the Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, (202) 523–9592 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of proposed amendments to PTE 78–19 (43 FR 59915, December 22, 1978). PTE 78–19 provides an exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1986 (the Code) by reason of certain provisions of section 4975(c)(1) of the Code.

The amendments to PTE 78–19 proposed herein were requested in an exemption application dated March 3, 1988 on behalf of the Prudential Insurance Company of America, the Equitable Life Assurance Society of the United States, John Hancock Mutual Life Insurance Company, Connecticut General Life Insurance Company, the Mutual Life Insurance Company of New York and the Principal Financial Group (the Applicants).

The Department is proposing the amendments to PTE 78–19 pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code [1] and in accordance with ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Information collection requirements contained in PTE 78–19 have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB number 1210–0054 approved for use through February 28, 1990.

PTE 78–19 consists of four parts. Section I(a), the exemption's basic provision, permits an insurance company pooled separate account to engage in transactions, which otherwise might be prohibited by sections 406 and 407(a) of ERISA and section 4975(c)(1) of the Code, with persons who are parties in interest with respect to an employee benefit plan investing in the account. The plan's participation in the account, under section I(a), may not exceed five percent of the total assets in the pooled separate account.

Under section II(a) of PTE 78–19, a party in interest with respect to a plan is permitted in certain cases to furnish goods to an insurance company pooled separate account in which the plan has an interest exceeding the section I limitation. Section II(a) also allows both the leasing of real property and the incidental furnishing of goods by a pooled separate account to a party in interest. Section II(a) contains a condition that the amount involved in the furnishing of goods or leasing of real property in any calendar year does not exceed the greater of $25,000 or .025 percent of the fair market value of the assets of the pooled separate account.

The Applicants request three specific modifications to the class exemption: (1) That the percentage limitation in section I(a)(1) of PTE 78–19 be increased from five to ten percent; (2) that the percentage limitation in section II(a)(3) be increased from .025 percent to .5 percent; and (3) that broad relief be included for investments by insurance company pooled separate accounts in short-term obligations. The Applicants represent that the requested amendments meet the criteria set forth in section 408(a) of ERISA, and are consistent with various other class and individual exemptions involving similar kinds of transactions that have been granted by the Department since the issuance of PTE 78–19 in 1978.

The Department notes that all the relevant conditions contained in PTE 78–19, with the exception of those modified by this proposal, still must be met under the proposed amendments. These conditions include a requirement that the party in interest is not the insurance company (or an affiliate) which holds the plan assets in its pooled separate account or any other separate account of the insurance company. The terms of the transaction are at least as favorable to the pooled separate account as those obtainable in an arm's-length transaction with an unrelated party. Also, the insurance company must maintain certain records for a period of six years from the date of the transaction. The Department also notes that insurance companies generally are subject to extensive state regulation.

According to the Applicants, insurance companies have based their ERISA compliance programs for pooled separate accounts on the availability of the exemptions contained in PTE 78–19. Where PTE 78–19 is unavailable for their pooled separate accounts, insurers have been required either to restructure their compliance programs to ensure that other exemptions are available or to take other administrative steps to ensure that the various transactions involving the accounts are not prohibited.

A. Requested Increase in Percentage Limitation of Section I(a)(1)

Section I(a) of PTE 78–19 contains a general exemption from the prohibitions of section 406(a), 406(b)(2) and 407(a) of ERISA for any transaction between a pooled separate account and a party in interest with respect to a plan participating in he account, or for any acquisition or holding by the account of employer securities or employer real property, so long as the plan's participation does not exceed a specified percentage of the total assets in the pooled separate account. The Applicants request that the percentage limitation of section I(a)(1) of PTE 78–19 be raised from five to ten percent.

The Applicants argue that the five percent rule contained in section I(a)(1)

[1] Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1979), transferred the authority of the Secretary of the Treasury to issue exemptions of this type to the Secretary of Labor.

In the discussion of the exemption, references to sections 406 and 408 of ERISA should be read to refer as well to the corresponding provisions of section 4975 of the Code.

is essentially a *de minimis* rule. Also, the Applicants argue that expanding the five percent requirement would be in the best interests of participating plans and their participants and beneficiaries. A higher percentage limitation would allow the pooled separate accounts to compete equitably for a broader range of investment opportunities and would generally increase the types of competitive pooled investment vehicles available for plan investment. It would also provide insurers with the flexibility necessary to deal with inadvertent fluctuations in the levels of plan participation in an account. The Applicants have found that, in the case of real estate pooled separate accounts, the general exemption of section I(a) would become unavailable, not as a result of a particular plan's additional contributions to an account but due to withdrawals from the account by other plans. Also, the savings resulting from the reduced burden of compliance due to a higher percentage limitation would result in a lower administrative costs for plans participating in the accounts.

The five percent limitation represents the Department's view that, where a plan's interest in a pooled separate account is a small percentage of the account's total assets, the plan sponsor will not be in a position to influence the investment decisions of the separate account for the benefit of any person who is a party in interest to the plan. However, since the issuance of PTE 78–19, the Department has considered the appropriateness of a five percent limitation in the context of certain individual exemptions for pooled investment vehicles. On the basis of arguments similar to those raised by the Applicants above, the Department generally provided exemptive relief subject to a ten percent limitation.[2] Accordingly, based on its experience with PTE 78–19 and various individual exemptions and for the reasons given above, including arguments presented by the Applicants, the Department has decided to propose an amendment of section I(a)(1) of PTE 78–19 to increase the percentage limitation from five to ten percent.

B. Requested Increase in Percentage Limitation of Section II(a)(3)

Section II(a) of PTE 78–19 provides a specific exemption from the prohibitions of sections 406(a)(1) (A) through (D) and 406(b) (1) and (2) of ERISA for the furnishing of goods to an insurance company pooled separate account by a party in interest with respect to a plan, or the leasing of real property of the separate account to a party in interest and the incidental furnishing of goods to the party in interest by such account, provided certain conditions are met. Section II(a)(3) specifies that the annual amount involved in the furnishing of goods or leasing of real property in any calendar year may not exceed the greater of $25,000 or .025 percent of the fair market value of the assets of the pooled separate account.

The Applicants request that the .025 percent standard of section II(a)(3) of PTE 78–19 be increased to .5 percent. The Applicants contend that raising this limitation would eliminate any competitive disadvantage placed on insurance company pooled separate accounts as a result of relief granted by the Department to banks which maintain collective investment funds. The Department previously granted relief which contained a .5 percent limitation for an otherwise identical category of transactions in PTE 80–51 (45 FR 49709, July 25, 1980), a class exemption issued subsequent to PTE 78–19 which involved transactions between parties in interest with respect to participating plans and collective investment funds maintained by banks.

The Applicants also argue that increasing this limitation would ease the burden of compliance on the part of insurance company pooled separate accounts. The present .025 percent standard restricts relief to an extremely small number of transactions. Because of the potentially large number of parties in interest of the plans participating in pooled separate accounts, the .025 percent rule essentially requires insurers to examine a large number of small, nonabusive transactions to assure that no technical prohibited transactions under ERISA will occur.

The Department was persuaded on the basis of comments received in regard to the proposal for PTE 80–51 which suggested that a .025 percent limitation was unnecessarily restrictive and that a .5 percent rule would afford adequate relief. The Department further notes that it has granted a number of individual exemptions which include a .5 percent standard for various kinds of non-insurance company, non-bank pooled investment vehicles.[3] Accordingly, on the basis of the Department's experience with individual exemptions and PTE 80–51 and because it is persuaded that a .025 percent limitation is too restrictive, the Department has decided to propose an amendment of section II(a)(3) of PTE 78–19 to increase the percentage limitation to .5 percent.

C. Exemption for Short-term Investments of Pooled Separate Accounts

During the consideration of PTE 78–19, the original applicants requested exemptive relief for short-term investments made by pooled separate accounts in commercial paper and other securities issued by employers (or their affiliates) maintaining plans with greater than five percent interests in the accounts. Such relief was not included in the final class exemption for reasons set forth in the preamble to PTE 78–19 (43 FR at 59918). The Department realized that special treatment might be needed for insurance company pooled investments in short-term obligations, but could not determine on the basis of the record at that time whether or to what extent to grant such relief. Thus, in order not to delay the effectiveness of the other provisions of PTE 78–19, no special treatment for short-term debt instruments was proposed or granted. However, footnote 7 of the preamble stated that class or individual applicants may wish in the future to submit applications concerning short-term investments by pooled separate accounts. In this regard, the original applicants requested an amendment to PTE 78–19 for short-term debt instruments shortly after the Department granted similar relief in PTE 80–51 for bank collective investment funds.[4]

The Applicants request that the Department expand PTE 78–19 to provide exemptive relief for short-term investments made by insurance company pooled separate accounts. Specifically, the Applicants request that an exemption similar to section I(a)(1)(B) of PTE 80–51 be provide for pooled separate accounts that have substantially all of their assets invested in short-term obligations with a maturity of one year or less.

The Applicants maintain that relief for short-term investments is necessary not

[2] In this regard, see PTE 85–44 (the Lasalle Fund II, 50 FR 8410, March 1, 1985); PTE 86–08 (the Boston Financial Real Estate Equity Group Trust, 51 FR 2596, January 17, 1986); and PTE 87–81 (the SEI Property Fund, 52 FR 32079, August 25, 1987).

[3] In this regard, see PTE 82–209 (Smith, Barney Real Estate Fund, 47 FR 55545, December 14, 1982); PTE 84–41 (Copley Investors Limited Partnership, 49 FR 19153, May 4, 1984); and PTE 85–43 (Lehndorff & Babson Property Fund, 50 FR 8408, March 1, 1985).

[4] Section I(a)(1)(B) of PTE 80–51 provides relief from sections 406(a), 406(b)(2) and 407(a) of ERISA for certain transactions involving collective investment funds maintained by banks which have a policy of investing substantially all of their assets in short-term obligations having a stated maturity date of one year or less or having a maturity date of one year or less from the date of purchase.

only to eliminate the competitive disadvantage faced by insurance company pooled separate accounts vis-a-vis bank collective investment funds which qualify for the relief provided by PTE 80–51, but also to alleviate the ERISA compliance problems associated with monitoring nonabusive short-term investments.

The Applicants represent that insurance companies make certain short-term investments for pooled separate accounts. Insurers sometimes maintain pooled separate accounts (short-term accounts) with respect to which the principal objective is the investment of funds in short-term obligations. The primary purpose of a short-term account generally has been to provide a plan with a highly liquid account in which plan funds, (1) awaiting investment in other separate accounts or (2) being held for benefit payments soon to become due, may be invested at an attractive investment yield to the plan.

The principal types of instruments in which insurance companies make short-term investments for their pooled separate accounts are commercial paper, certificates of deposit, U.S. Government and Federal Agency obligations, bankers acceptances and repurchase agreements. The Applicants are especially concerned with short-term investments made by pooled accounts in commercial paper issued by companies (or their affiliates) which are employers that maintain plans with greater than five percent interests in the accounts or which are parties in interest with respect to the plans for various other reasons.[5]

Transactions of this kind may occur regularly because (1) commercial paper often represents a substantial portion (sometimes more than 50 percent) of the aggregate short-term investments of each Applicant for its pooled separate accounts, and (2) sponsors (or their affilates) of plans with larger percentage interests in the pooled accounts frequently are the issuers of commercial paper in which the Applicants may invest.

The Applicants represent that investments in the short-term money market, including the commercial paper market, often must be made within a matter of minutes during which time the essential terms of a transaction (e.g., interest rate and maturity date) are decided. These time constraints preclude any significant discussion as to whether the issuer (or an affiliate) may be related to a plan, the extent of a plan's interest in the account, and the like. The short-term investment personnel of major insurance companies generally do not act as portfolio managers for specific separate accounts and are not in a position to readily check the identity of issuers of short-term instruments and their affiliates against lists of participating plans. Also, the volume of transactions of this kind is quite larger. The dollar amount of short-term investments made by some of the Applicants may be more than $40 million on a given day. The insurer's short-term investment personnel at times may not know whether a particular investment is being made for any particular account.

Accordingly, on the basis of the foregoing representations and the Department's experience with similar relief granted to bank collective investment funds under PTE 80–51, the Department has decided to propose relief similar to that provided under section I(a)(1)(B) of PTE 80–51. Thus, this notice proposes relief for pooled separate accounts that have substantially all of their assets invested in short-term obligations with a maturity of one year or less.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of ERISA does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA which require, among other things, that a fiduciary discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of ERISA, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed amendments, if granted, will be supplemental to, and not in derogation of, any other provisions of ERISA and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transition is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Request

All interested persons are invited to submit written comments or requests for a public hearing on the proposed amendments to the address and within the time period set forth above. All comments will be made a part of the record.

(ii) 5 percent of the total of all assets in the pooled separate account, if the transaction occurs on or after February 20, 1979, and on or before June 30, 1988; or

(iii) 10 percent of the total of all assets in the pooled separate account, if the transaction occurs on or after July 1, 1988, or

(2) On or after July 1, 1988, the pooled separate account is a specialized account that has a policy of investing, and invests, substantially all of its assets in short-term obligations (having a stated maturity date of one year or less or having a maturity date of one year or less from the date of acquisition by such specialized account), including but not necessarily limited to—

(i) Corporate or governmental obligations or related repurchase agreements;

(ii) Certificates of deposit;

(iii) Bankers acceptances; or

(iv) Varible amount notes of borrowers of prime credit.

2. Section II(a)(3) of the exemption is amended to read:

The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the pooled separate account with the same party in interest, or any affiliate thereof) does not exceed the greater of $25,000 or .5 percent of the fair market value of the assets Comments and requests for a hearing should state the reasons for the writer's interest in the proposed amendments. Comments received will be available for public inspection with the referenced applicatin at the above address.

Proposed Amendments

Under section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with ERISA Procedure 75–1, the Department proposes to amend PTE 78–19 as set forth below.

1. Section I(a) of the exemption is amended to read:

[5] In this regard, the Deparetment notes that section I(a) of PTE 78–19 generally would be available for investments in commercial paper issued by parties in interest (including an employer) with respect to plans with 5 percent or smaller interests in an account. Also, section II(b) generally would be available for short-term investments issued by persons who are service providers with respect to participating plans (regardless of the plan's percentage interest in the account).

General exemption. Any transaction between a party in interest with respect to a plan and an insurance company pooled separate account in which the plan has an interest, or any acquisition or holding by the pooled separate acount of employer securities or employer real property, if the party in interest is not the insurance company which holds the plan assets in its pooled separate account, any other separate account of the insurance company, or any affiliate of the insurance company, and if, at the time of the transaction, acquisition or holding, either

(1) The assets of the plan (together with the assets of any other plans maintained by the same employer or employee organization) in the pooled separate account do not exceed—

(i) 10 percent of the total of all assets in the pooled separate account, if the transaction occurs prior to February 20, 1979; of the pooled separate account on the most recent valuation date of the account prior to the transaction.

Signed at Washington, DC, this 20th day of July, 1989.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 89-17450 Filed 7-25-89; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted by August 25, 1989.

ADDRESSES: Send comments to Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3002, Washington, DC 20503; (202-395-7316). In addition, copies of such comments may be sent to Mrs. Anne C. Doyle, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue NW., Washington, DC 20506; (202-682-5401).

FOR FURTHER INFORMATION CONTACT: Mrs. Anne C. Doyle, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue NW., Washington, DC 20506; (202-682-5401) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests a review of the revision of a currently approved collection of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: Theater Application Guidelines FY 1990.

Frequency of Collection: One-time.

Respondents: Individuals or households; State or local governments; Non-profit institutions.

Use: Guideline instructions and applications elicit relevant information from individual artists, non-profit arts organizations and state or local arts agencies that apply for funding under specific Theater Program categories. This information is necessary for the accurate, thorough, and fair consideration of competing proposals in the peer review process.

Estimated Number of Respondents: 837.

Average Burden Hours per Response: 29.

Total Estimated Burden: 24,472.

Anne C. Doyle,

Administrative Services Division, National Endowment for the Arts.

[FR Doc. 89-17454 Filed 7-25-89; 8:45 am]

BILLING CODE 7537-01-M

Meeting of the Inter-Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Fund for U.S. Artists at International Festivals Section) to the National Council on the Arts will be held on July 26, 1989 from 10:00 a.m.-4:00 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, this meeting will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

July 21, 1989.

[FR Doc. 89-17608 Filed 7-24-89; 4:14 pm]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to the permit application by August 25, 1989. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of

a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the **Federal Register** on June 21, 1988. The application received is as follows:

Applicant

Wayne Z. Trivelpiece, Point Reyes Bird Observatory, 4990 Shoreline Highway, Stinson Beach, CA 94970.

Activity for Which Permit Requested

Take, import into USA, enter site of special scientific interest. The applicant is conducting a study of the behavioral ecology and population biology of the Adelie, Gentoo, and Chinstrap penguins and the interactions among these birds and their principal avian predators: skuas, gulls, sheathbills, and Giant Petrels. The applicant requests permission to band 500–2000 chicks and adults of each penguin species. For a maximum of 50 adults of each species, radio transmitters and time-depth recorders will be attached to the birds. All birds will be released after the experiments or banding. Permission is requested to enter site of special scientific interest No. 8. The applicant requested permission to import salvaged specimens (skeletons) of penguins and other birds.

Location

South Shetland Islands, Antarctica.

Dates

October 1989–March 1990.

Charles E. Myers,

Polar Coordination Specialist, Permit Office.

[FR Doc. 89–17407 Filed 7–25–89; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from June 30, 1989 through July 14, 1989. The last biweekly notice was published on July 12, 1989 (54 FR 29397).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 25, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A

petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arkansas Power & Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: December 16, 1988

Description of amendment request: This amendment would modify the Technical Specifications (TS) related to fire barriers. The modifications include the following: (1) the title of Sections 3.21 and 4.24 are changed from penetration fire barriers to fire barriers and the terms functional and intact are changed to Operable; (2) Sections 3.21 and 3.21.1 are changed to indicate that these TS cover barriers for both separation of safety-related fire areas and separation of redundant safe shutdown systems required in the event of a fire; (3) Section 3.21.3 is changed to address the applicability of TS 3.0.3 and 3.0.4 for clarification; (4) Section 4.24.1 is modified for clarification; (5) Section 4.24.1.b is added to require the performance of a visual inspection of fire doors and fire dampers once per 18 months; (6) Section 4.24.1.c is added to require that ten percent of each type of sealed penetration be inspected at least once per 18 months and that all penetration seals be inspected once per 15 years. For each of the above changes, appropriate changes to the TS Bases have been made.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in the margin of safety. Arkansas Power and Light Company (AP&L) has reviewed the proposed change and has determined that:

The proposed change to the title of Sections 3.21, 4.24 and the Bases, and the use of the term "OPERABLE" instead of functional or intact do not involve a significant hazards consideration because operation of Arkansas Nuclear One, Unit 1 in accordance with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed change would not increase the probability or consequences of any accident previously evaluated since this administrative change does not provide any relief from the requirements of the Technical Specifications, or change the intended operation or administrative requirements of the plant or its design bases.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed change would not create the possibility of a new or different kind of accident from any previously analyzed since this administrative change does not adversely affect any components or systems which contribute to the safety of the plant.

(3) Involve a significant reduction in the margin of safety.

The proposed change would not involve a significant reduction in the margin of safety since this change has no effect on any plant safety parameters, accident mitigation capabilities, or procedures.

The proposed changes to Sections 3.21 and 3.21.1 and their corresponding Bases do not involve a significant hazards consideration because operation of Arkansas Nuclear One, Unit 1 in accordance with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed change would increase the scope of this Technical Specification to specifically include fire barriers separating both safety related fire areas as well as redundant safe shutdown systems required in the event of a fire. As this change increases the scope of this Technical Specification it would not increase the probability or

consequences of any accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The fire barriers required by this Specification restrict the spread of fire to safety-related fire areas and redundant trains of safe shutdown equipment. This change does not add any new plant fire barriers, it only enlarges the scope of the fire barriers covered by Technical Specifications. Therefore, increasing the scope of the Specification will not create the possibility of a new or different kind of accident from any previously analyzed.

(3) Involve a significant reduction in the margin of safety.

The existing Technical Specification requirements are not reduced by this change, instead the requirements are increased and the only possible effect on the margin of safety is to increase it.

The proposed change to Section 3.21.2 and its corresponding Bases does not involve a significant hazards consideration because operation of Arkansas Nuclear One, Unit 1 in accordance with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed change would add an additional requirement when compensating for an inoperable fire barrier. As this change does not increase the probability of a fire it would not increase the probability or consequences of an accident previously analyzed.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

This change does not create the possibility of a new or different kind of accident from any previously analyzed as the new method of compensating for an inoperable fire barrier serves the same purpose as the old method of compensation.

(3) Involve a significant reduction in the margin of safety.

This change will still provide the same level of confidence that an undetected fire will not spread beyond the Specification fire barriers. Therefore, there is not a significant reduction in a margin of safety.

This proposed change to the surveillance requirements in Section 4.24.1 of the Arkansas Nuclear One, Unit 1 Technical Specifications does not involve a significant hazards consideration as it would not:

(1) Involve a significant increase in the probability or consequences of an accident previously analyzed.

Although the change does increase the interval between surveillances of the individual penetrations, the visual surveillance of the overall barrier will still be performed at the same 18 month interval. Therefore, this change maintains conservative restrictions on the surveillance of the affected fire barriers and does not involve a significant increase in the probability or consequences of an accident previously analyzed.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

This change increases the number of barriers covered by this surveillance. The interval for inspection of individual penetrations is lengthened. However, a representative sample of each type of penetration is still examined at the previous 18 month surveillance interval and thus the integrity of the fire barriers is still assured. Therefore this change does not create the possibility of a new or different kind of accident from any previously analyzed.

(3) Involve a significant reduction in the margin of safety.

This change does not involve a significant reduction in the margin of safety; rather, it constitutes an additional limitation, restriction or control not presently included in the Technical Specifications as additional fire barriers are covered by this Technical Specification. The lengthening of the individual penetration seal surveillance interval is adequately compensated for by the surveillance of a representative sample of penetration seals.

The staff has reviewed AP&L's no significant hazards consideration determination and agrees with the analysis. Therefore the staff proposes to determine that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell, & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Frederick J. Hebdon

Arkansas Power & Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: June 13, 1989

Description of amendment request: The proposed amendment would add a note to the Technical Specifications (TS) to clarify the meaning of TS 3.4.1.4 regarding the turbine driven emergency feedwater (EFW) pump operability determination prior to heating the reactor coolant system above 280° F.

Basis for proposed no significant hazards consideration determination: The proposed change to the TS would provide an unambiguous requirement to perform a limited test of the turbine driven emergency feedwater pump with available steam pressure to demonstrate the functionality of the pump prior to heating the reactor coolant system above 280° F. This test would require meeting all of the performance criteria of the surveillance test specified by TS 4.8.1(a)1., except the minimum discharge pressure and flow, which can be achieved only with normal operating secondary system steam pressure. This test requirement is more restrictive than past licensee interpretations of this TS, which held that a functional test could be performed only at full steam pressure in order to meet the discharge pressure and flow criteria. Therefore, this change represents an additional requirement which enhances the safe operation of the plant by providing further assurance of the availability of the turbine driven EFW pump prior to heatup.

The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (51 FR 7751). These examples include: Example (ii), a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: e.g, "a more stringent surveillance requirement."

The new requirement to perform a functional test of the turbine driven EFW pump prior to heating the reactor coolant system above 280° F constitutes an additional limitation, restriction, and control not presently included in the Technical Specifications. Therefore, the proposed amendment is within the scope of the example.

Since the application for amendment involves a proposed change that is encompassed by an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell, & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Frederick J. Hebdon

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: December 16, 1988

Description of amendment request: This amendment would modify the Technical Specifications (TS) related to fire barriers. The modifications include the following: (1) the title of Section 3/4.7.11 is changed from penetration fire barriers to fire barriers and the terms functional and intact are changed to Operable; (2) Section 3.7.11 is changed to indicate that the TS covers barriers for both separation of safety-related fire

areas and separation of redundant safe shutdown systems required in the event of a fire; (3) Section 3.7.11.a is changed by adding the option to verify the operability of fire detectors with the control room alarm on at least one side of the affected barrier with an hourly fire watch; (4) Section 4.7.11 is changed for clarification; (5) Section 4.7.11.c is added to require the performance of a visual inspection of fire doors and fire dampers once per 18 months; (6) Section 4.7.11.d is added to require that ten percent of each type of sealed penetration be inspected at least once each 18 months and that all penetration seals be inspected once per 15 years. For each of the above changes, appropriate changes to the TS Bases for Section 3/4.7.11 have been made.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. Arkansas Power and Light Company (AP&L) has reviewed the proposed change and has determined that:

The proposed change to the title of Section 3.4.7.11 and the Bases, and the use of the term OPERABLE instead of functional or intact does not involve a significant hazards consideration because operation of Arkansas Nuclear One, Unit 2 in accordance with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed change would not increase the probability or consequences of any accident previously evaluated since this administrative change does not provide any relief from the requirements of the Technical Specifications, or change the intended operation or administrative requirements of the plant or its design bases.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed change would not create the possibility of a new or different kind of accident from any previously analyzed since this administrative change does not adversely affect any components or systems which contribute to the safety of the plant.

(3) Involve a significant reduction in the margin of safety.

The proposed change would not involve a significant reduction in the margin of safety since this change has no effect on any plant safety parameters, accident mitigation capabilities, or procedures.

The proposed change to Section 3.7.11 and its corresponding Bases does not involve a significant hazards consideration because operation of Arkansas Nuclear One, Unit 2 in accordance with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed change would increase the scope of this Technical Specification to specifically include fire barriers separating both safety-related fire areas as well as redundant safe shutdown systems required in the event of a fire. As this change increases the scope of this Technical Specification it would not increase the probability or consequences of any accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The fire barriers required by this Specification restrict the spread of fire to safety-related fire areas and redundant trains of safe shutdown equipment. This change does not add any new plant fire barriers, it only enlarges the scope of the fire barriers covered by Technical Specifications. Therefore, increasing the scope of the Specification will not create the possibility of a new or different kind of accident from any previously analyzed.

(3) Involve a significant reduction in the margin of safety.

The existing Technical Specification requirements are not reduced by this change, instead the requirements are increased and the only possible effect on the margin of safety is to increase it.

The proposed change to Section 3.7.11.a and its corresponding Bases does not involve a significant hazards consideration because operation of Arkansas Nuclear One, Unit 2 in accordance with this change would not:

(1) Involve a significant increase in the probability or consequence of an accident previously analyzed.

The proposed change would add an additional method of compensating for an inoperable fire barrier. As this change does not increase the probability of a fire it would not increase the probability or consequences of an accident previously analyzed.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

This change does not create the possibility of a new or different kind of accident from any previously analyzed as the new method of compensating for an inoperable fire barrier serves the same purpose as the old method of compensation.

(3) Involve a significant reduction in the margin of safety.

This change will still provide the same level of confidence that a undetected fire will not spread beyond the Specification fire barriers. Therefore, there is not a significant reduction in a margin of safety.

This proposed change to the surveillance requirements in Section 4.7.11 of the Arkansas Nuclear One, Unit 2 Technical Specifications does not involve a significant hazards consideration as it would not:

(1) Involve a significant increase in the probability or consequences of an accident previously analyzed.

Although the change does increase the interval between surveillances of the individual penetrations, the visual surveillance of the overall barrier will still be performed at the same 18 month interval. Therefore, this change maintains conservative restrictions on the surveillance of the affected fire barriers and does not involve a significant increase in the probability or consequences of an accident previously analyzed.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

This change increases the number of barriers covered by this surveillance. The interval for inspection of individual penetrations is lengthened. However, a representative sample of each type of penetration is still examined at the previous 18 month surveillance interval and thus the integrity of the fire barriers is still assured. Therefore, this change does not create the possibility of a new or different kind of accident from any previously analyzed.

(3) Involve a significant reduction in the margin of safety.

This change does not involve a significant reduction in the margin of safety; rather, it constitutes an additional limitation, restriction or control not presently included in the Technical Specifications as additional fire barriers are covered by this Technical Specification. The lengthening of the individual penetration seal surveillance interval is adequately compensated for by the surveillance of a representative sample of penetrations seals.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Frederick J. Hebdon

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: June 13, 1989

Description of amendment request: This amendment would change the Technical Specifications (TS) for Arkansas Nuclear One, Unit 2 by deleting TS Section 4.3.1.1.4 which contains the surveillance requirements

for the existing Core Protection Calculator (CPC) isolation equipment.

Arkansas Power and Light (AP&L) is presently in the process of replacing part of the hardware in the ANO-2 Core Protection Calculator System. This effort is scheduled for completion during the upcoming 2R7 refueling outage, presently scheduled to begin in September of this year. A portion of the hardware upgrade includes new fiber optics devices to provide interchannel isolation for the CPC/Core Element Assembly Calculator (CEAC) data links and the CEA position isolation amplifiers. The use of fiber optics equipment for data transmission offers superior isolation capabilities compared to the existing system, which uses conductive wiring and optical isolators to achieve the required channel isolation. Technical Specification 4.3.1.1.4 contains the surveillance requirements for the specific isolation equipment in the existing CPCS hardware. Testing of the new devices in accordance with the existing TS is neither necessary nor practical, as the new equipment uses non-conducting fiber optics cable. The existing TS will no longer be appropriate upon completion of the CPCS upgrade and is therefore proposed to be removed.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The licensee reviewed the proposed change and determined that:

(1) The proposed amendment does not involves a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change would not alter the probability of any previously analyzed accident occurring. The proposed change simply deletes a surveillance requirement which is no longer applicable for the equipment installed in the plant. This will not impact the accident-initiating events described in Chapter 15 of the ANO-2 SAR. Further, the proposed change will not adversely affect the consequences of accidents which have been previously evaluated. The proposed change simply reflects the upgrading of hardware in a plant protection system, which should increase the system reliability and therefore increase the ability to mitigate the consequences of postulated accidents.

(2) The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

The equipment upgrade associated with the proposed change will not change the overall design and protection system function of the CPCS, and the new hardware serves the same purpose as the hardware it replaces; therefore, the proposed change will not create the possibility of a new or different kind of accident. The proposed change simply deletes a surveillance requirement which is no longer appropriate for the specific equipment associated with the CPCS hardware replacement. The new equipment offers superior isolation performance and reliability.

(3) The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed change is associated with replacement hardware which will improve system reliability, and therefore improve overall safety margins. The CPCS will have at least the same capabilities to mitigate accidents as it had prior to the hardware upgrade, as the system software, and therefore, the protection system function, will remain unchanged. The hardware change does not change the overall design basis for any function of the CPCS equipment.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Frederick J. Hebdon

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: June 15, 1989

Description of amendment request: The proposed amendment will modify the control element assembly (CEA) drop time requirements of Technical Specification 3.1.3.4. The change would increase the maximum allowable individual full length CEA drop time from the current 3.2 seconds to 3.5 seconds, and would specify a maximum arithmetic average of all full length CEA drop times of 3.2 seconds. The proposed changes are based on analyses performed by Combustion Engineering which demonstrate that CEA drop time testing acceptance criteria based on average drop times, rather than on the slowest individual CEA drop time, are equally conservative.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. Arkansas Power and Light Company (AP&L) has reviewed the proposed change and has determined that:

(1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes to the CEA drop time requirements have been evaluated for impact on the ANO-2 accident analyses. The change involves only an acceptance criteria for equipment performance and no physical changes. The CEA drop time acceptance criteria are used to develop trip reactivity insertion rates which are in turn used as inputs to the accident analyses.

The Combustion Engineering analyses have demonstrated that the calculated trip reactivity for a distributed CEA drop pattern is the same as the trip reactivity calculated for the unrealistic non-distributed pattern currently assumed. Since the trip reactivity assumed in the accident analyses is not adversely impacted by consideration of a distributed CEA drop pattern, the proposed limits will not increase the probability or consequences of an accident previously evaluated.

(2) The proposed amendment does not created the possibility of a new or different kind of accident from any previously evaluated. The proposed change does not involve any new or modified structures, systems or components; rather, it affects only an acceptance criteria for confirming the required performance of the existing CEA hardware. Therefore, the proposed change would not create the possibility of a new or

different kind of accident from any previously evaluated.

(3) The proposed amendment does not involve a significant reduction in a margin of safety. The margins of safety related to CEA insertion are defined by the analyzed events in the Safety Analysis Report which credit the insertion. As demonstrated in Criterion 1 above, the proposed limits on CEA drop time have no adverse impact on the accident analyses. Therefore, the margins of safety reflected in the accident analysis conclusions are not reduced.

The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists. This guidance includes examples (51 FR 7750) of types of amendments that are considered not likely to involve significant hazards considerations. The change proposed in this amendment is not directly comparable to any of the examples identified in 51 FR 7750.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Frederick J. Hebdon

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: February 15, 1989

Description of amendment request: The amendments would revise the description of Action 23 associated with Table 3.3.2-1, Isolation Actuation Instrumentation, to differentiate between the actions to be taken in Operational Conditions 1, 2, and 3 and the actions to be taken for Operational Conditions 5 and *. Presently, Action 23 states for Operational Conditions 1, 2, 3, 5, and *, "Establish SECONDARY CONTAINMENT INTEGRITY with the standby gas treatment system operating within one hour."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided the following analysis to show that the proposed amendment does not involve a significant hazard consideration:

1. Action 23 associated with Table 3.3.2-1 of the Technical Specifications currently does not provide alternative actions for Operational Conditions 5 and * when secondary containment integrity with the standby gas treatment system operating cannot be achieved.

The proposed requirement to establish secondary containment integrity with the standby gas treatment system operating when the unit is in Operational Conditions 5 and * will enhance protection for the health and safety of the public in the event of a fuel handling accident. Currently, if Action 23 cannot be met, several actions may be taken depending upon the circumstances.

If the standby gas treatment system cannot operate, Technical Specification 3.6.6.1, which requires immediate suspension of fuel handling if both subsystems of the standby gas treatment system are inoperable, would be invoked. If the secondary containment integrity cannot be maintained, Technical Specification 3.6.5.1, which requires suspension of fuel handling if secondary containment integrity cannot be established within 8 hours, applies.

The proposed change will require suspension of fuel handling within one hour if secondary containment integrity cannot be maintained, which is more restrictive than Technical Specification 3.6.5.1. If the standby gas treatment system cannot operate, the more restrictive requirements of Technical Specification 3.6.6.1 will still apply.

By suspending fuel handling within one hour if secondary containment integrity cannot be established with the standby gas treatment system operating, the potential for a fuel handling accident that could affect the health and safety of the public is reduced. No other accidents are affected. Therefore, the proposed change decreases the probability of an accident.

The consequences of a fuel handling accident remain unchanged because the fuel handling accident scenario does not change. Only the time in which a fuel handling accident could occur while secondary containment is not maintained is reduced from 8 hours to 1 hour, thereby impacting only the probability of an accident.

2. The additional requirement does not impact how the secondary containment performs its function. It only adds a requirement which will provide additional assurance that the health and safety of the public are maintained if a fuel handling accident were to occur. Thus, no new or different accident possibilities are created.

3. The proposed change provides additional assurance that the health and safety of the public are maintained in the event secondary containment integrity with the standby gas treatment system operating in Operational Conditions 5 and * cannot be achieved. Currently, fuel handling would be suspended within 8 hours if secondary containment integrity cannot be maintained, and immediately if the standby gas treatment system cannot operate. Thus, the proposed amendment increases the margin of safety if secondary containment integrity cannot be maintained, and maintains the current margin of safety if the standby gas treatment system cannot operate.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination. The licensee addressed the three standards and appears to have met them. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County, Illinois; Docket Nos. 50-254 and 50-265, Quad Cities Station, Unit Nos. 1 and 2, Rock Island County, Illinois

Date of application for amendment request: June 12, 1989

Description of amendment request: The proposed amendment identified "inhalation" as the most limiting pathway, with the "childs" thyroid as the critical organ for radiation doses, and restricts the radiation dose to less than or equal to 1500 mrem/year. The proposed amendment changes the Technical Specifications Bases, Paragraph 3.8.A.1 (DPR-19 & DPR-25) and Paragraph 3.8/4.8.A.1 (DRP-29 &

DPR-30), to be more restrictive and consistent with NUREG-0473.

Current Technical Specifications restrict release rates to less than or equal to 1500 mrem/year thyroid dose rate above background to an infant via the cow-milk-infant pathway. The proposed Technical Specifications retain the dose rate of 1500 mrem/year; however, the critical receptor is a child via the inhalation pathway in lieu of an infant via the cow-milk-infant pathway.

Basis for proposed no significant hazards consideration determination: The change in the Technical Specifications has been evaluated against the standards of 10 CFR 50.92 and has been determined not to involve a significant hazards consideration because:

1. The proposed change does not involve any relaxation of established safety limits, limiting safety system settings, or limiting conditions for operations. The proposed amendment revises the pathway for calculation of restricting dose rates to a more limiting receptor pathway, i.e. child inhalation. This change does not involve any accident precursor and, therefore, does not increase the probability of an accident. In addition, NUREG 0473, Revision 3 Draft 7 has identified the child inhalation pathway as a more limiting receptor pathway and, therefore, the use of a more limiting receptor for dose calculation does not increase the consequences of an accident previously evaluated.

2. The proposed amendment changes the pathway for calculating the restricted dose rate, and allows for a change in the computer model for dose calculation. The change to the dose calculation model does not involve a change in safety limits, limiting safety system settings, or limiting conditions for operation. Therefore, it does not create any new or different kind of accident than previously evaluated.

3. The proposed amendment changes the receptor pathway to a more limiting case, i.e. child inhalation, thereby, creating a more conservative dose calculation. The use of a more limiting receptor pathway does not reduce the margin of safety.

Since the application for amendment involves proposed changes that are encompassed by the criteria for which no significant hazards consideration exists, the NRC staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450 (Dresden), and Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021 (Quad Cities).

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Acting Project Director: Paul C. Shemanski

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Lake County, Illinois

Date of application for amendments: June 2, 1989

Brief description of amendment: This amendment request will modify Section 4.3, Reactor Coolant System, of the Technical Specifications for Zion Station. It will allow Zion Station's steam generator tubes to be repaired, if needed, by utilizing the Bechtel-KWU Alliance sleeving methodology. The existing Technical Specifications have been previously separately amended to permit utilization of the Combustion Engineering (CE) and the Westinghouse (WE) processes for steam generator tube sleeving. The addition of the Bechtel-KWU Alliance methodology as an approved alternative repair method would provide Zion with the flexibility necessary to continue with the philosophy of using an integrated refueling outage coordination.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and determined that it involves no significant hazards consideration. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequence of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commonwealth Edison Company (the licensee) provided the following discussion regarding each of the above criteria for no significant hazards consideration determination.

DISCUSSION - ITEM 1

The creation of the option to utilize the Bechtel-KWU Alliance welded sleeve process to repair a defective steam generator tube has no effect on either the probability or consequences of any accident previously evaluated. As discussed in Bechtel-KWU Alliance report, BKAT-01-P, Revision 1, the integrity of the steam generator tubes will be equivalent to that of an original tube, or a tube sleeved by the NRC-approved CE or WE processes. The continued integrity of the sleeves will be verified by the inspection program required as a result of this change.

Thus, since the structural integrity of the tubes will not be adversely affected by this change, there is no increase in the probability of an accident previously evaluated. Specifically, the probability of a steam generator tube rupture will be unaltered.

In addition, the steam generator will remain capable of performing its required heat transfer function. The information provided in Section 4.3.5 of BKAT-01-P, Revision 1 demonstrates that the sleeve-induced primary flow reduction resulting from the use of a Bechtel-KWU Alliance sleeve is comparable to the currently approved WE or CE processes. As a result, the choice to install a Bechtel-KWU Alliance sleeve, as opposed to a WE or CE sleeve, will have no significant effect on the steam generator's heat transfer ability.

The sleeving process will allow a repaired steam generator tube to remain in service, rather than completely blocking the tube's flow with plugs. Thus, the act of placing a sleeve in a steam generator tube actually results in a more efficient steam generator relative to plugging the tube.

Based upon the above discussion, the consequences of any accident previously evaluated will be unaffected because the heat transfer capability of the steam generators will not be significantly altered.

DISCUSSION - ITEM 2

As discussed above, both the structural integrity and the heat transfer capability of Zion steam generators will not be significantly affected by the use of the Bechtel-KWU Alliance welded sleeve process instead of the WE or CE sleeve processes. In addition, the steam generator tube sleeves do not interact with any other of Zion's systems. The ability of Zion's safety systems to perform their function will not be altered. Thus, there is no potential for a new or different kind of accident due to the use of the Bechtel-KWU sleeving process to repair Zion's steam generators.

DISCUSSION - ITEM 3

The heat transfer capabilities of Zion's steam generators will not be significantly altered through the utilization of Bechtel-KWU Alliance welded sleeves as opposed to the currently approved WE or CE sleeves. In general, the sleeving process, whether the Bechtel-KWU Alliance, WE, or CE processes are utilized, results in a more

efficient steam generator when compared to the plugging alternative.

As discussed above and in BKAT-01-P, Revision 1, the structural integrity of the steam generator tubes will be unaltered. Use of the Bechtel-KWU Alliance, WE, or CE sleeving processes will produce a primary system boundary with the appropriate integrity.

Since both the structural integrity and the heat transfer capability of Zion's steam generators will not be significantly altered by the choice of sleeving processes, the margin of safety will not be affected.

Therefore, since the application for amendment satisfies the criteria specified in 10 CFR 50.92, Commonwealth Edison Company made a determination that the application involves no significant hazards consideration.

After preliminary review of licensee's submittal, the staff agrees with licensee's overall conclusion. Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Paul C. Shemanski, Acting Director

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut; Northeast Nuclear Energy Company, et al., Docket Nos. 50-245 and 50-335, Millstone Nuclear Power Station, Unit Nos. 1 and 2, New London County, Connecticut

Date of amendment request: April 25, 1989 as supplemented June 26, 1989

Description of amendment request: The proposed amendments would change Technical Specification Sections 6.12, "High Radiation Area," for Haddam Neck and Millstone Unit 2 plants and TS Section 6.13, "High Radiation Area," for Millstone Unit 1 plant by (1) defining the dose rate as measured at 45 cm (18 inches) from the source, (2) increasing the Radiation Work Permit requirements for entry into locked High Radiation Areas with dose rates greater than 1000 mR/h by requiring maximum stay time limits or continuous surveillance, (3) allowing an alternative to enclosing and locking large areas with dose rates less than 1000 mR/h and in which an enclosure cannot be reasonably constructed and (4) define locked High Radiation Areas as those with dose rates greater than 1000 mR/h at 18 inches from the radiation source.

Basis for proposed no significant hazards consideration determination: The licensee has reviewed the proposed changes in accordance with 10 CFR 50.92 and has concluded and the staff agrees that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability of occurrence of an accident previously analyzed. These changes are consistent with NRC Standard Technical Specification guidance and Information Notice 88-79. The licensee's current practice of specifying the measurement distance reduces the possibility of overexposure. The proposed change would specify this practice in the Technical Specifications. The proposed change also increases the requirements for entry into locked high radiation areas. Since there are no changes to the way the plant is operated, the probability of occurrence or consequences of an accident previously analyzed is not increased.

2. Create the possibility of a new or different kind of accident from any previously analyzed. The change allows an alternative to enclosing and locking large areas with dose rate greater than 1000 mR/h and in which an enclosure cannot be reasonably constructed. It allows the use of barricades, postings, and flashing lights. The proposed change would incorporate the current practice of specifying the measurement distance from the radiation source to determine dose rates. The change would also increase requirements for entry into locked high radiation areas. Since there are no changes in the way the plant is operated, the potential for an unanalyzed accident is not created. No new failure modes would be introduced.

3. Involve a significant reduction in the margin of safety. Since the proposed changes do not affect the consequences of any accident previously analyzed, there is no reduction in the margin of safety. The change increases Radiation Work Permit requirements for entry into locked High Radiation Areas with dose rates greater than 1000 mR/h by requiring maximum stay time limits or continuous surveillance. In past practice, dose rates for High Radiation Areas (unlocked) were defined as greater than 100 mR/h but less than 1000 mR/h in contact with the radiation source. As proposed, each High Radiation Area, as defined in 10 CFR Part 20, in which the intensity of radiation is equal to or less than 1000 mR/h would be measured at 18 inches from the radiation source. The proposed changes would additionally define locked High Radiation Areas as those with dose rates greater than 1000 mR/h at 18 inches from the radiation source. The proposed change would incorporate the current practice of specifying the measurement from the radiation source to determine dose rates.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457 and Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut and Northeast Nuclear Energy Company, et al., Docket Nos. 50-245/336/423, Millstone Nuclear Power Station, Unit Nos. 1, 2 and 3, New London County, Connecticut

Date of amendment request: May 25, 1989

Description of amendment request: The proposed amendments will change the Technical Specifications (TS) as follows:

1. Sections 6.10.2.m (Haddam Neck, Millstone Unit Nos. 1 and 2) and 6.10.3 (Millstone Unit No. 3) are being added to the Records Retention section. This section requires lifetime retention of records of reviews performed for changes made to the Radiological Effluent Monitoring and Offsite Dose Calculation Manual (REMODCM) and the Process Control Program (PCP).

2. Sections 6.17 (Haddam Neck), 6.15 (Millstone Unit Nos. 1 and 2), and 6.13 (Millstone Unit No. 3) are being changed to simplify the administrative controls for making changes to the Radiological Effluent Monitoring Manual (REMM).

Basis for proposed no significant hazards consideration determination: On January 31, 1989, the NRC issued Generic Letter (GL) 89-01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications in the Administrative Controls Section of the Technical Specifications and the Relocation of Procedural Details or RETS to the Offsite Dose Calculation Manual or to the Process Control Program."

The purpose of GL 89-01 was to provide model TS which simplify the administrate requirements for effluent monitoring programs. The application for license amendments dated May 25, 1989 specifically addresses changes to the REMM and record retention for the REMODCM and the PCP and conforms to the guidance in GL 89-01. The TS associated with other elements of the effluent monitoring programs will be addressed separately, at a future date.

The licensees have reviewed the proposed changes in accordance with 10 CFR 50.92 and have concluded and the staff agrees that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously analyzed. These changes are consistent with NRC Generic Letter 89-01 which furthers the NRC's goal as stated in the Commission Policy Statement for Technical Specification improvements. Since there are no changes in the way the plant is operated, the probability of occurrence or consequences of an accident previously analyzed is not increased.

2. Create the possibility of a new or different kind of accident from any previously analyzed. The proposed changes simplify the administrative controls for changes to the REMM. Since there are no changes in the way the plant is operated, the potential for an unanalyzed accident is not created. No new failure modes are introduced.

3. Involve a significant reduction in the margin of safety. Since the proposed changes do not affect the consequences of any accident previously analyzed, there is no reduction in the margin of safety.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457 and the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: August 14, 1987, as supplemented April 22, 1988.

Description of amendment request: The proposed amendments would change the Oconee Nuclear Station Technical Specification (TS) 3.4.4 to raise the minimum upper surge tank (UST) level from 5 feet to 6 feet. The level setpoint of 6 feet includes an allowance for instrument error.

The amendment request also includes a revision to the bases of TS 3.4. The table of emergency feedwater flow vs. the time required to remove decay heat and reactor coolant pump heat, following reactor trip from 102% rated power would be revised.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided the following discussion regarding the three criteria.

The proposed amendments increase the required UST level from 5 feet to an indicated 6 feet allowing for maximum instrument error. This is an improvement which would assure the availability of the required UST inventory. Therefore, the proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments involve a change which would increase the required UST level from 5 feet to 6 feet. This change constitutes an additional limitation and restriction which will improve the margin of safety. The amendments do not involve any modification in the system design and procedures which would create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendments are an improvement in the availability and reliability of the water sources for emergency feedwater for decay heat removal and do not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determiniation and agrees with the analysis.

Accordingly, the Commission has made a proposed determination that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Bishop, Lieberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: David B. Matthews

Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: June 22, 1989

Description of amendment request: The proposed amendments would revise the Technical Specifications of each unit as follows:

(1) Increase the maximum service water (i.e. Ohio River water) temperature limit from 86° F to 90° F for Unit 1, and 86° F to 89° F for Unit 2;

(2) Reduce the required service water flow through the Unit 2 recirculation spray heat exchangers from 12,000 gpm to 11,000 gpm.

(3) Replace Figure 3.6-1 regarding maximum allowable containment air pressure with a new Figure 3.6-1, developed as a result of the study to support change (1).

(4) For Unit 1, increase the minimum refueling water storage tank (RWST) temperature from 43° F to 45° F, while the maximum RWST temperature is specified as 55° F.

(5) For Unit 1, increase the peak accident pressure in the containment from 38.5 to 40.0 psig, as a result of the study to support change (1).

(6) For Unit 1, change the surveillance requirement of the quench spray and recirculation spray pumps to reflect revised allowable margins for pump degradation assumed in the study to support change (1).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in accordance with 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazard consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee has re-evaluated previously analyzed accidents. No accidents were determined to be caused by high river water temperature. Furthermore, the licensee determined that despite the proposed changes to the technical specifications, the design requirement of the containment depressurization systems will continue to be met, and safety-related equipment which require river water cooling will be capable of performing their design functions at the increased service water temperature limit. Hence the answer to the first criterion is negative.

There is no hardware, software or operational procedure changes as a result of the proposed amendment. Hence the answer to the second criterion is also negative.

The proposed amendments do involve slight relaxation of margins of safety.

However, the licensee's analysis shows that the safety systems will continue to meet design objectives. The relaxation is not significant and the answer is also negative to the third criterion.

The staff therefore proposes to determine that the requested amendments involve no significant hazards considerations.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: June 12, 1989

Description of amendment request: This amendment would change the Technical Specifications (TS) to reflect the updated 10 CFR Part 50, Appendix J method for containment leakage testing. Specifically, the amendment will permit the use of the mass point method to determine containment leakage. The mass point method has been accepted by the staff as an improved alternate test method for determining containment leakage.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed amendment was analyzed with respect to the above three criteria. With respect to the first criterion, the licensee determined that the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously analyzed since the TS will continue to require surveillance testing in accordance with 10 CFR Part 50, Appendix J. This change will allow the use of Commission-approved methodologies for containment leakage testing that have been incorporated into the regulations for general industry use (53 FR 45890).

With respect to the second criterion, the licensee determined that the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated since the amendment involves no physical change to the plant, nor any change in plant operating procedures.

With respect to the third criterion, the licensee determined that the proposed amendment would not involve a significant reduction in a margin of safety since the margin of safety currently provided by the TS remains the same. The proposed amendment still requires containment leakage testing to be performed at the same frequency, per 10 CFR Part 50, Appendix J, and in accordance with Commission-approved methodologies.

The staff has performed a preliminary evaluation of the licensee's submittal and believes that the criteria of 10 CFR 50.92 are met. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards considerations.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Attorney for licensee: A. H. Stephens, General Counsel, Florida Power Corporation, MAC - A5D, P. O. Box 14042, St. Petersburg, Florida 33733

NRC Project Director: Herbert N. Berkow

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: June 12, 1989

Description of amendment request: This amendment would add a new Technical Specification that would address the use of hydrogen purge valves for depressurization of the containment. The new specification ensures limited use of the hydrogen purge valves.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has analyzed the proposed change in light of the above three criteria. With respect to the first criterion, the licensee determined that the proposed change would not increase the probability or consequences of any accident previously evaluated since this change provides assurance that the hydrogen purge valves are capable of closing during a loss of coolant accident or a steam line break accident within containment. Performance of the proposed surveillance requirements would demonstrate valve operability, thus insuring that off-site dose limits would not be exceeded in the event of an accident during containment purging operations.

With respect to the second criterion, the licensee determined that the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated since the proposed change introduces no new mode of plant operation nor does it require a physical modification to the plant.

With respect to the third criterion, the licensee determined that the proposed change would not involve a significant reduction in a margin of safety since the change adds a restriction on plant operation to ensure time periods with direct access from the containment to the outside atmosphere are minimized.

The staff has performed a preliminary evaluation of the licensee's submittal and believes that the criteria of 10 CFR 50.92 are met. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards considerations.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Attorney for licensee: A. H. Stephens, General Counsel, Florida Power Corporation, MAC - A5D, P. O. Box 14042, St. Petersburg, Florida 33733

NRC Project Director: Herbert N. Berkow

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: June 13, 1989

Description of amendment request: This amendment request includes proposed Technical Specification changes related to 10 CFR 50 Appendix J Local Leakage Rate testing (LLRT)

including the relocation of LLRT component and valve lists from the Technical Specifications to the Updated FSAR. Removal of tabular listings from the Technical Specifications is an area of Technical Specifications improvement that has been identified by the Atomic Industrial Forum (AIF) and the NRC. Relocation of these tabular listings to the Updated FSAR would allow future changes to these lists, as permitted by the regulations, to be made without a license amendment. This would relieve both the NRC and GPUN of this administrative burden.

Basis for proposed no significant hazards consideration determination: GPU Nuclear Corporation has determined that this Technical Specification Change Request poses no significant hazards as defined by the NRC in 10 CFR 50.92. This change is considered to be administrative in nature and does not involve significant hazards consideration as evaluated below.

1. Operation of Three Mile Island Nuclear Station, Unit-1, in accordance with this change would not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed Technical Specification change does not modify or create any accident initiating condition. This change provides for update of the list of components subject to 10 CFR 50 Appendix J Type "C" tests to add additional components to the list, improvement in the Technical Specifications by relocating lists to the FSAR, and deletion of certain test requirements that are not needed to meet the requirements of 10 CFR 50 Appendix J. Deletion of the requirements for Penetration Pressurization System quarterly rotameter readings does not result in changes contrary to the requirements of 10 CFR 50 Appendix J or the NRC's Standard Technical Specifications for Babcock and Wilcox Pressurized Water Reactors (NUREG-0103). The changes included in this request are either purely administrative in nature or are of minor technical significance and have no significance related to safe plant operation.

(10 CFR 50.92(c)(1))

2. Operation of Three Mile Island Nuclear Station, Unit-1, in accordance with this change would not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed Technical Specification change does not modify or create any accident initiating condition. The proposed changes to the LLRT test requirements in Technical Specifications will result in technical specification requirements that meet or exceed the requirements of 10 CFR 50 Appendix J.

(10 CFR 50.92(c)(2))

3. Operation of Three Mile Island Nuclear Station, Unit-1, in accordance with this change would not involve a significant reduction in a margin of safety because all Updated Final Safety Analysis Report (USAR) assumptions remain unchanged. The proposed changes to the LLRT test requirements will result in technical specification requirements that meet or exceed the requirements of 10 CFR 50 Appendix J. A minor change in the test requirements for the purge valves would not change the test methodology or the acceptance criteria and would not significantly affect the assurance of the early detection of purge valve seat degradation and inoperability because the additional examinations and increased (quarterly) test frequency of the purge valves beyond the Appendix J test requirements would be retained. Deletion of the requirements for Penetration Pressurization System quarterly rotameter readings is not discussed in the basis for any TMI-1 Technical Specification. Any reduction in test requirements resulting from this change would not significantly affect the timely detection of containment isolation valve or penetration inoperability.

(10 CFR 50.92(c)(3))

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: November 7, 1988, December 1, 1988 and May 19, 1989

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 3.3.3.6, "Accident Monitoring Instrumentation," to make the action requirements for inoperable containment hydrogen concentration monitors consistent with the requirements of TS 3.6.4.1, "Hydrogen Monitors."

Basis for proposed no significant hazards consideration determination: The two TS which address containment hydrogen concentration monitors have different action requirements for the same monitors. TS 3.3.3.6, "Accident Monitoring Instrumentation," allows 7 days to restore an inoperable monitor to operable status before proceeding to a lower mode of operation. If two monitors are inoperable, 48 hours are allowed to restore at least one to operable status. TS 3.6.4.1, "Hydrogen Monitors," allows 30 days and 72 hours, respectively. The 30 day requirement is consistent with Generic Letter 83-37 and is appropriate given the function performed by the hydrogen monitors. The licensee is therefore proposing to revise TS 3.3.3.6 to refer to TS 3.6.4.1 for action requirements when a hydrogen monitor is inoperable.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In regard to the proposed amendments, the licensee has determined the following:

1. The proposed change will not significantly increase the probability or consequences of an accident previously evaluated. The change affects only the time limit for restoring an inoperable containment hydrogen concentration monitor to operable status. These monitors are provided for post-LOCA indication and recording. They perform no control or trip functions and are not needed for immediate post-accident mitigative action. Hydrogen buildup following a LOCA is a slow process and alternate means of hydrogen monitoring are available. Even in the total absence of hydrogen monitoring, the hydrogen recombiners could sill be operated. The change will, therefore, have no significant negative effect on post-accident hydrogen control and the consequences of a LOCA would remain within previously analyzed limits.

2. The proposed change does not create the possibility of a new or different kind of accident than any accident previously evaluated. The change involves no physical alteration of the plant. The change does not introduce any new equipment into the plant or require any existing equipment to operate in a different manner from which it was designed to operate. The change, therefore, does not create a new failure mode, and a new or different kind of accident could not result.

3. The proposed change does not significantly reduce a margin of safety. The change does not affect safety limits or limiting safety system settings. The proposed time limit for restoring an inoperable hydrogen concentration monitor to operable status is consistent with NRC Generic Letter 83-37. The proposed time limit is appropriate given the nature of the monitored variable

and the availability of alternate means of monitoring. The change will, therefore, have no significant effect on the availability of post-accident hydrogen control and margins of safety are not reduced.

The NRC staff has reviewed the licensee's determination and concurs with its findings.

Accordingly, the Commission proposes to determine that the proposed change involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, N.E., Atlanta, Georgia 30043.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: May 8, 1989

Description of amendment request: These proposed amendments revise the values for TA (total allowance), Z (the statistical summation of errors assumed in the analysis) and the Allowable Value associated with the low Pressurizer Pressure Safety Injection setpoint, in Technical Specification Table 3.3-3.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In regard to the proposed amendment, the licensee has determined the following:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the trip setpoint is not changed, and this change is not a result of a plant modification or design change. The revisions to TA, Z and the Allowable Value are consistent with the evaluated accidents. The values being changed are used in the determination of whether or not instrument drift is sufficient to cause the instrument to be declared inoperable. The revision to this Technical Specification provides consistency with the manner in which the increased uncertainty associated with the Veritrak instrument was resolved.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because it does not result in a change in equipment and the trip setpoint remains the same.

3. The proposed change does not involve a significant reduction in a margin of safety because the setpoint has remained unchanged even though the safety analysis was evaluated by Westinghouse to account for additional uncertainty in the Veritrak instrument temperature compensation. These evaluations show that the revised analysis limits would be bounded by the existing analysis. The revision to TA, Z and Allowable Value are consistent with the safety analysis evaluation and will only effect [affect] the point at which a determination of significant instrument drift would result in the instrument being declared inoperable.

The NRC staff has reviewed the licensee's determination and concurs with its findings.

Accordingly, the Commission proposes to determine that the proposed change involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, N.E., Atlanta, Georgia 30043.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: May 19, 1989

Description of amendment request: The proposed amendments would revise the action statements of Technical Specification (TS) 3.3.2, "Engineered Safety Features Actuation System Instrumentation" and TS 3.7.6, "Control Room Emergency Filtration Systems (CREFS)," concerning the control room emergency filtration system and its associated actuation instrumentation. The change would add exceptions to TS 3.0.4, "Limiting Conditions For Operation and Surveillance Requirements*," to allow operational mode changes for those action statements of TS 3.3.2 and 3.7.6 which permit continued unit operation for an unlimited period of time.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In regard to the proposed amendment, the licensee has determined the following:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change does not affect equipment involved in the initiation of previously evaluated accidents. The probability of such accidents is therefore not increased. The change concerns the Control Room Emergency Filtration System (CREFS) and its associated actuation instrumentation, which function to mitigate the consequences of accidents. The change does not alter CREFS design or operation. The change revises the applicable action statements to permit mode changes if the action statement allows continued unit operation for an unlimited period of time. The action statements were written such that continued operation for an unlimited time is not permitted unless the Technical Specification bases for the CREFS and its actuation instrumentation continue to be met. That is, the CREFS will ensure that equipment qualification temperatures are not exceeded and that the control room would remain habitable during and following all credible accident conditions (including consideration of a single failure) and the instrumentation will ensure a redundant and diverse means to initiate a Control Room Isolation in response to credible accidents in either unit (including consideration of a single failure). The CREFS would therefore respond as previously analyzed if a demand occurred while operating in one of the affected action statements. Operating mode changes within the bounds of the action statements would not degrade the capability of the CREFS to mitigate an accident, hence, the consequences of previously analyzed accidents are not increased by the proposed change.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The change does not introduce any new equipment into the plant or require existing equipment to operate in a different manner from which it was designed to

operate. Since a new failure mode is not introduced by the change, a new or different kind of accident could not result.

3. The proposed change does not involve a significant reduction in a margin of safety. The change does not affect safety limits or limiting safety system settings. The Technical Specifications bases for the CREFS and its actuation instrumentation are maintained during operation in the affected action statements. Operating mode changes within the constraints of the action statements do not reduce the level of protection provided by the CREFS; therefore, margins of safety are not reduced.

The NRC staff has reviewed the licensee's determination and concurs with its finding.

Accordingly, the Commission proposes to determine that the proposed change involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, N.E., Atlanta, Georgia 30043.

NRC Project Director: David B. Matthews

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: June 23, 1989

Description of amendment request: The amendment would add two additional Gould Type HE43 circuit breakers to Technical Specification (TS) Table 3.8.4.1-1, "Primary Containment Penetration Conductor Overcurrent Protection Devices." For convenience and ALARA considerations, it is desirable to provide 480 volt recepticles in the drywell to power tools and other temporary equipment during future outages rather than run temporary power cables into the drywell. The design to provide power for the two receptacles requires the use of a containment electrical penetration. These circuits must be added to TS Table 3.8.4.1-1 for primary containment conductor overcurrent protection devices utilizing Gould Type HE43 circuit breakers. The wiring was implemented during the recent refueling outage; however, the licensee has stated that the circuits are deenergized and will continue to be verified as deenergized during Operational Conditions 1, 2, or 3 until the proposed change is approved. The new receptacles perform no safety-related function, and no safety-related systems, other than the containment penetrations, are affected by this modification.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

1. No significant increase in the probability or consequences of an accident previously evaluated results from the proposed change because:

The conduit, cable and equipment associated with this modification are being installed in accordance with all applicable seismic and electrical separation criteria. As such, adequate electrical protection in conformance with the Technical Specification Bases and USAR Section 8.3.1.1.4.3 is provided for all containment penetrations used. Operation or failure of the equipment installed by this modification has no impact on any safety-related system. Because this proposed change does not result in any new plant operating modes and electrical penetration overcurrent protection is provided as described in the USAR, this proposed change cannot increase the probability or consequences of any accident previously evaluated.

2. This proposed change will not create the possibility of a new or different kind of accident than any previously evaluated because:

A single failure of the equipment installed by this modification would at worst cause a loss of power to motor control center (MCC) 1NHS-MCC2A. Loss of this nonsafety-related MCC is assumed by the USAR during design basis accident conditions and is therefore, as previously analyzed. No other new, credible failure modes can be identified. The circuit protection design is identical to the as-built configuration for receptacle 1POP-WR2A01 already listed on Technical Specification Table 3.8.4.1-1. Additionally, this proposed change does not introduce any new plant operating modes. Therefore, this proposed change cannot create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety because:

Overcurrent protection is provided such that no single failure will cause excessive current in the penetration conductors. This ensures that the overcurrent protection is in accordance with the RBS USAR. Additionally, the circuit protection design is identical to the as-built configuration for receptacle 1POP-WR2A01 already listed on Technical Specification Table 3.8.4.1-1. The new receptacles perform no safety-related function and no safety-related systems, other than the containment penetrations, are affected by this modification. Further the proposed change does not result in any new plant operating modes. Therefore, the proposed change does not result in any reduction in the margin of safety.

Based on the above considerations, the proposed change does not increase the probability or the consequences of a previously evaluated accident, does not create the possibility of a new or different kind of accident from any previously evaluated, and does not involve a reduction in the margin of safety. Therefore, Gulf States Utilities Company proposes that no significant hazards are involved.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Troy B. Conner, Jr., Esq., Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Frederick J. Hebdon

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Dates of amendment request: May 12, 1989 and July 3, 1989 (Reference LAR 89-05).

Description of amendment request: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to change the diesel generator (DG) allowed outage time (AOT) from 72 hours to 7 days. Prior to installation of the sixth DG, this change would apply only to the swing diesel generator (DG 1-3) for performance of preplanned preventive maintenance. After the sixth DG is installed and operational (scheduled for December 1991), the 7-day AOT would apply to all DGs. Specific TS changes would include (1) revising TS 3.8.1.1 and TS 4.8.1.1, and (2) revising the associated Bases accordingly.

This request was previously noticed in the **Federal Register** on May 31, 1989 at 54 FR 23319. This replaces the previous notice.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee, in its submittal of May 12, 1989, evaluated the proposed changes against the significant hazards criteria of 10 CFR 50.92 and against the Commission guidance concerning application of this standard. Based on the evaluation given below, the licensee has concluded that the proposed changes do not involve a significant hazards consideration. The licensee's evaluation is as follows:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The Diablo Canyon offsite and onsite power systems are highly reliable. The 230kV and 500kV systems have been demonstrated to provide reliable offsite power sources for both units. The DCPP DG reliability history indicates that average reliability is higher than the requirements in Regulatory Guide 1.155, Station Blackout, and is higher than the industry average.

The risk and reliability evaluation determined that the probability of an accident previously evaluated does not significantly change by increasing the DG AOT from 72 hours to 7 days. The relative risk evaluation demonstrated that the relative risk remained low with an increased AOT from 72 hours to 7 days because of the improved maintenance possible with the 7-day AOT and the avoidance of multiple 72-hour AOTs.

Increasing the DG AOT does not involve physical alteration of any plant equipment and does not affect analysis assumptions regarding functioning of required equipment designed to mitigate the consequences of accidents. Further, the severity of postulated accidents and resulting radiological effluent releases will not be affected by the increased AOT.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Extending the DG AOT from 72 hours to 7 days does not necessitate physical alteration of the plant or changes in parameters governing normal plant operation.

Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for Diablo Canyon.

c. Does the change involve a significant reduction in a margin of safety?

As discussed above, the risk and reliability evaluations determined that the change in core melt frequency for a 7-day AOT compared with a 72-hour AOT is insignificant.

Therefore, this change does not result in a significant reduction in a margin of safety.

The NRC Staff has reviewed the proposed changes, including the additional restrictions proposed in the licensee's letter of July 3, 1989, and the licensee's no significant hazards consideration determination and finds them acceptable. Therefore, the Staff proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

Pennsylvania Power and Light Company, Docket No. 50-388 Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: June 9, 1989

Description of amendment request: The proposed amendment would change the Technial Specification 3.6.6.2 to reflect addition of two drywell cooling fans and to add circuit breakers in Table 3.8.4.1-1 of the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and concurs with the following basis and conclusion provided by the licensee in its June 9, 1989 submittal.

The proposed change does not:

(1) Involve an increase in the probability or consequences of an accident previously evaluated.

FSAR Sections 9.4.5 and 6.2.5 provide discussion regarding drywell cooling system and combustible gas control in containment respectively. Both Sections have been reviewed for impact.

This modification will improve the capability of the Drywell Atmosphere Recirculation and Cooling System. The safety-related function of the system, that is, hydrogen mixing following LOCA, is not changed except recirculation fans 2V418 A&B, instead of unit cooler fans 2V415 A&B, will provide the air mixing in the CRD undervessel area. Fan motor horse power is reduced to 5/2.5 hp from the present 10/5 hp. However, air flow capability of fans 2V418 A&B is the same as that of fans in 2V415 A&B. This will provide for same hydrogen mixing capability.

(2) Create the possibility of a new or different kind of accident from any previously evaluated. The change is in accordance with existing design criteria and will not adversely affect the function of any system. Electrical separation, seismic integrity and all other design criteria will be met.

(3) Involve a reduction in the margin of safety. Technical Specification Bases discussed in Sections 3/4.6.1.7, "Drywell Average Air Temperature"; 3/4.6.6, "Primary Containment Atmosphere Control", and 3/4.8.4, "Electrical Equipment Protective Devices"; have been reviewed for impact.

This change will improve the capability of the Drywell Atmosphere Recirculation and Cooling System to maintain the drywell atmosphere average temperature below the requirement of Technical Specification Section 3/4.6.1.7.

Based on the above considerations, the Commission proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: Walter R. Butler

Pennsylvania Power and Light Company, Docket No. 50-388 Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: June 16, 1989

Description of amendment request: The proposed request involves changes to Susquehanna Steam Electric Station (SSES) Unit 2 Technical Specifications

in support of Cycle 4 operations. Specifically, changes to the following areas of Technical Specifications are requested.

- Index
- Safety Limits (B.2.1)
- Average Planer Linear Heat Generation Rate (3/4.2.1 and B3/4.2.1)
- APRM Setpoints (3/4.2.2 and B3/4.2.2)
- Minimum Critical Power Ratio (3/4.2.3 and B3/4.2.3)
- Linear Heat Generation Rate (3/4.2.4)
- Recirculation System (3/4.4.1 and B3/4.4.1)
- Fuel Assemblies (5.3.1)

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and concurs with the following basis and conclusion provided by the licensee in its June 16, 1989 submittal.

The following three questions are addressed for each of the proposed Technical Specification changes:

I. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

II. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

III. Does the proposed change involve a significant reduction in a margin of safety?

- Specification 3/4.2.1, Average Planar Linear Heat Generation Rate

The changes to this specification are editorial in nature in that they reflect the removal of the remaining General Electric (GE) fuel from the SSES Unit 2 core.

I. No. The changes to this specification and its associated figures are solely due to the fact that no GE fuel will reside in the Unit 2 Cycle 4 (U2C4) core. Therefore, the specification is written to address the limits for ANF 9X9 fuel, the only fuel type in the U2C4 core. The deletion of the footnote referencing single loop operation (SLO) is due to the fact that the MAPLHGR limits for ANF fuel do not change for SLO. None of these editorial changes have any impact on safety analyses.

II. No. See I above.

III. No. See I above.

- Specification 3/4.2.2, APRM Setpoints Setpoints

The changes to this specification are editorial in nature in that they reflect the removal of the remaining GE fuel from the SSES Unit 2 core.

I. No. The changes to this specification are solely due to the fact that no GE fuel will reside in the U2C4 core. The definition of "T" for GE fuel is therefore deleted. This editorial change has no impact on any safety analysis.

II. No. See I above.

III. No. See I above.

- Specification 3/4.2.3, Minimum Critical Power Ratio

The changes to this specification provide new operating limit MCPR curves based on cycle-specific transient analyses.

I. No. Limiting core-wide transients were evaluated with ANF's CONTRANSA code... and this output was utilized by the XCOBRA-T methodology (see Summary Report Reference 20) to determine delta CPRs. Both COTRANSA and XCOBRA-T have been approved by the NRC in previous license amendments. All core-wide transients were analyzed deterministically (i.e., using bounding values as input parameters).

Two local events, Rod Withdrawal Error and Fuel Loading Error, were analyzed in accordance with the methods described in XN-NF-80-19 (A) Vol. 1.... This methodology has been approved by the NRC.

Based on the above, the methodology used to develop the new operating limit MCPRs for the Technical Specifications does not involve a significant increase in the probability or consequences of an accident previously evaluated.

II. No. The methodology described can only be evaluated for its effect on the consequences of analyzed events; it cannot create new ones. The consequences of analyzed events were evaluated in I above.

III. No. As stated in I above, and in greater detail in the attached Reload Summary Report, the methodology used to evaluate core-wide and local transients is consistent with previously approved methods and meets all pertinent regulatory criteria for use in this application.

Based on the above, the use of the methodology used to produce the U2C4 MCPR operating limits will not result in any decrease in any margin of safety.

- Specification 3/4.2.4, Linear Heat Generation Rate

All proposed changes to this specification are editorial.

I. No. The proposed changes simply remove all references to GE fuel. This has no impact on safety since it is entirely administrative in nature.

II. No. See I above.

III. No. See I above.

- Specification 3/4.4.1, Recirculation System (Two Loop Operation)

The changes to this specification reflect cycle specific stability analysis and the extrapolation of the limit presented in figure 3.4.1.1.1-1, Thermal Power/Core Flow Limitations, to rated power conditions.

I. No. The 55 million lbs/hr. optional limit proposed for deletion is an administrative change. It was included as a quick reference for the operator in order to assure he was within the flow limit in the figure. The actual limit is provided by the figure, which remains, but has been revised for Cycle 4 operation.

COTRAN core stability calculations performed for U2C4 predict stable reactor operation outside of the detect and suppress region of operation in SSES Unit 2. The detect and suppress region is conservatively defined by the area above and to the left of the 80% Rod line, the 45% constant flow line, and the line connecting the 66% Power/45% Flow, 73.25% Power/50% Flow points extrapolated to 100% Rated Core Thermal Power. Operation below, to the right of, or on the boundary of this region is supported by COTRAN calculations which result in decay ratios of less than or equal to 0.75 as required by the NRC SER on COTRAN.... This region is slightly larger than the region previously approved for SSES Unit 2. The results of this analysis are presented in Summary Report Reference 4. PP&L has also developed administrative controls to comply with NRC Bulletin 88-07, Supplement 1.....

In addition to the detect and suppress region definition, PP&L has performed stability tests in SSES Unit 2 during initial startup of Cycles 2 and 3 to demonstrate stable reactor operation with ANF 9x9 fuel. The test results for U2C2..... show very low decay ratios with a core containing 324 ANF 9x9 fuel assemblies.

Extrapolation of the figure to rated conditions was conservatively implemented to ensure that decay ratio boundaries for the entire U2C4 operating region were provided.

Based on the above, operation within the limits specified by the proposed changes and PP&L's administrative controls will ensure that the probability and consequences of unstable operation will not increase.

II. No. The methodology described above can only be evaluated for its effect on the consequences of unstable operation; it cannot create new events. The consequences were evaluated in I above.

III. No. The methodology used to determine the regions of potentially unstable operation and stable operation is based on the guidance provided in the NRC SER for COTRAN. Also, PP&L has implemented administrative controls to assure compliance with NRC Bulletin 88-07, Supplement 1. This along with the tests and analyses described in I above assures SSES Unit 2 complies with General Design Criteria 12, Suppression of Reactor Power Oscillations. Therefore, the proposed change will not result in any decrease in safety margin.

- Specification 3/4.4.1, Recirculation System (Single Loop Operation)

I. No. The original GE SLO analysis required the adjustment of APRM scram, APRM Rod block, and Rod Block Monitor setpoints in SLO to bound changes in the assumed drive flow to core flow relationship between two loop and single loop operation. The GE analysis indicated that the two loop to single loop change is typically less than 7% drive flow for a given core flow. SSES-specific data taken by PP&L indicates that an 8.5% drive flow change would bound differences between two loop and single loop operation. Therefore, Specifications 3.4.1.1.2a.2,4 and 6 incorporate setpoint adjustments to account for this 8.5% change.

Specification a.3 is revised to delete MAPLHGR as a "revised specification limit."

This is an administrative change. LOCA analyses performed by ANF..... indicated that the two loop MAPLHGR limits are applicable to SLO for ANF fuel. The limits for GE fuel are deleted since GE fuel is no longer in the Unit 2 core.

Specification a.5 is revised to delete the 1.37 Cycle 3 limit which was provided based on a PP&L decision to conservatively treat the Recirculation Pump Seizure Accident as an anticipated operational occurrence for which a delta CPR had to be determined. For Cycle 4, PP&L has decided to treat the pump seizure event as an accident, consistent with the guidance of the Standard Review Plan. Therefore, this change in approach will continue to ensure compliance with NRC guidance.

Changes to 3.4.1.1.2b and c, Actions c and e, Surveillance 4.4.1.1.2.2, and Figure 3.4.1.1.2-1 reflect the replacement of the Thermal Power Limitations figure for SLO with a reference to the two-loop figure. This is because the core stability analysis results have been determined to be applicable for both single and two loop operation.....

Based on the above, appropriate limits have been proposed to assure that operation under single loop conditions will not result in a significant increase in the probability or consequences of any accident previously evaluated.

II. No. The revised APRM setpoints are based on actual data which renders them more restrictive. Application of the two loop MAPLHGR limits, MCPR limits, and stability boundaries as specified for SLO is based on NRC approved methods. Neither these nor the supporting editorial changes can create the potential for a new event.

III. No. As stated in II above, the new APRM setpoints are more restrictive and more accurate and therefore cannot result in a significant reduction in safety margin. The other changes are based on analyses which ensure that no significant reduction in safety margin has occurred based on their inputs, applied conservatisms, and calculational methodologies as documented in this proposal.

• Specification 5.3.1, Fuel Assemblies

The proposed changes are editorial in nature in that they reflect the removal of the remaining GE fuel from the Unit 2 core.

I. No. The changes to this specification are wholly editorial. The reference to 62 rods applied only to GE 8x8 fuel bundles, which will not reside in the U2C4 core. References to the initial core loading are unnecessary and are proposed to be deleted. Based on their editorial nature, the proposed changes cannot involve a significant increase in the probability or consequences of an accident previously evaluated.

II. No. See I above.

III. No. See I above.

Based on the above considerations, the Commission proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: Walter R. Butler

Pennsylvania Power and Light Company, Docket No. 50-388 Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: June 16, 1989

Description of amendment request: The amendment request proposes to delete valves and a footnote from Table 3.6.3-1, "Primary Containment Isolation Valves", and a paragraph in Bases Section 3/4.6.2 related to the valves being deleted.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and concurs with the following basis and conclusion provided by the licensee in its June 16, 1989 submittal.

I. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

As stated previously (See licensee's June 16, 1989 application), a decision was made to cancel the RHR waterhammer backpressure control valve modification based upon reduced SRV leakage and improved suppression pool temperature measuring methods. The improvements noted reduce the frequency and duration of cycles that the RHR system operates in suppression pool cooling to within the design basis as stated in the FSAR. Therefore, the deletion of the proposed valves (HV-25129 A&B) from Table 3.6.3-1 does not affect the probability or consequences of an accident previously evaluated.

Since the waterhammer modification is being cancelled, the deletion of the revised Section B 3/4.6.2 is an administrative change.

The moving of valves (HV-251F011 A&B) from Section B (Manual Isolation Valves) of Table 3.6.3-1 to Section C (Other Valves) does not impact the containment isolation function of these valves. Therefore this change is administrative in nature.

The removal of the HV-251F011 A&B and HV-251F026 A&B valves from Table 3.8.4.2.1-1 is due to the fact that they are no longer motor operated and therefore are not required to have thermal overload protection.

II. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. Since improvements have been made to the plant, and the RHR system operates within the design bases as stated in the FSAR, the deletion of the proposed valves does not create any new concerns. The removal of the revised Bases section and the rearrangement of valves on Table 3.6.3-1 are administrative changes and do not create new concerns.

Since the power from valves HV-E11-2F011 A&B and HV-E11-2F026 A&B is removed and leakage requirements for containment integrity and isolation do not change, no new concerns are created by this proposal.

III. The proposed change does not involve a significant reduction in a margin of safety.

Since the RHR system functions within the design basis, the overall safety margin is not reduced by not installing the proposed valves. The deletion of the Bases section and the revision to Table 3.6.3-1 are administrative changes and do not reduce the margin of safety. Since the containment isolation and integrity are assured to the same relevant criteria as discussed previously, the overall safety margin has not been reduced due to the proposed changes to Table 3.8.4.2.1-1.

Based on the above considerations, the Commission proposes to determine that the proposed changes involve no significant hazards consideration.

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NRC Project Director: Walter R. Butler

Pennsylvania Power and Light Company, Docket No. 50-388 Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: June 19, 1989

Description of amendment request: The proposed amendment request consists of a one time waiver of the requirements of Technical Specification Section 4.0.2.b and would permit exceeding the 3.25 year combined interval for 3 consecutive surveillance intervals.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a

facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and concurs with the following basis and conclusion provided by the licensee in its June 19, 1989 submittal.

I. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The 3.25 surveillance interval extension criteria of Technical Specification 4.0.2 was not taken credit for in the evaluation of the probability or severity of events analyzed in the plant accident analysis (FSAR Chapter 15).

Additionally, the 18 month refuel interval was originally chosen to correspond to expected operating cycle length such that these surveillances would be performed during the shutdown period (Reference Generic Letter 83-27). Since no technical basis is specified for the 18 month interval other than conformance with expected operating cycle length, deleting the 3.25 requirements for Unit 2 18 month surveillances on a one time basis does not involve a significant decrease in the effectiveness of the monitoring provision. Generic Letter 83-27 indicates that this is acceptable to the Staff "... for plant-specific conditions where adequate justification is given."

II. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated since the refuel surveillance interval will still be constrained by the maximum 1.25 interval extension criteria of Technical Specification 4.0.2.

III. The proposed change does not involve a significant reduction in a margin of safety. Deletion on a one-time basis of the requirement for three consecutive surveillance intervals not exceeding 3.25 times the interval from the refueling interval for Unit 2 18 month surveillances will not significantly effect equipment reliability. The current criteria allows a 22.5 month interval. By virtue of Technical Specification 4.0.2.a, the staff has already accepted that a 22.5 month interval will provide a sufficient level of protection.

Based on the above considerations, the Commission proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

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NRC Project Director: Walter R. Butler

Pennsylvania Power and Light Company, Docket No. 50-388 Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: June 22, 1989

Description of amendment request: The amendment request proposes changes to Susquehanna Steam Electric Station (SSES) Unit 1 Technical Specifications to correct errors in figures for MCPR values introduced as a result of the licensee's analysis in support of Amendment No. 90, dated May 15, 1989 and to incorporate some editorial changes. The licensee states it determined an error in its interpretation of licensing analysis of end-of-cycle reactor pump trip (EOC-RPT) event and found that Figure 3.2.3-1 and 3.2.3-2 should reflect minimum MCPR value of 1.43 instead of 1.42 requested in its February 2, 1989 request for Technical Specification changes to support Unit 1 Cycle 5 (U1C5) operation.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and concurs with the following basis and conclusion provided by the licensee in its June 22, 1989 submittal.

I. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

As stated previously, the results provided in the analysis supporting U1C5 are correct. Therefore, the analytical methodology used to develop delta CPRs, which was previously approved by the NRC, is not in question. The proposed change corrects an error in converting the analytical results to the MCPR operating limit curve when EOC-RPT is inoperable. Correction of this error results in a more restrictive limit at end-of-cycle; this will not result in an increase in the probability or consequences of an accident previously evaluated.

The increased application of Figure 3.2.3-1 from 40% to 30% total core flow is the result of a more accurate definition of the SSES Unit 1 two pump minimum speed operating line. The change to include 30% total core flow was performed to ensure an operating limit was provided which bounds the redefined line. This will not increase the probability or consequences of an accident previously evaluated.

The changes to Specification 3.2.1 (APLHGR), 3.2.4 (LHGR), and 3.4.1.1.2 (SLO) are all editorial changes which reflect the removal of all GE fuel from the SSES Unit 1 core. Specification 3.2.1 is revised to remove an unnecessary reference to ANF fuel, and to remove a cross-reference footnote to SLO since this limit will no longer change for SLO. Specification 3.2.4 also deletes unnecessary references to ANF fuel. Finally, Specification 3.4.1.1.2 deletes the reference to MAPLHGR, because it no longer represents a "revised specification limit" during SLO. All of these changes are editorial in nature, and can therefore have no impact on any previous safety analysis.

II. Create the possibility of a new or different kind of accident from any accident previously evaluated.

As discussed in I above, the methodology used to develop the delta CPRs that form the basis for the MCPR figures is correct as approved by the NRC for U1C5. The correction proposed will ensure proper limits based on the methodology; it cannot create a new event. The increased flow range for Figure 3.2.3-1 is the result of more accurate information as to the location of the two pump minimum speed line. Addition of this new lower limit ensures proper restrictions for this flow range; it cannot create a new event. The editorial changes, by nature, cannot create new events.

III. Involve a significant reduction in a margin of safety. The two changes to the MCPR figures provide corrections based on more accurate information. The change to the MCPR curves with EOC-RPT inoperable results in a more restrictive minimum limit. The increased flow range in Figure 3.2.3-1 results in a limit that was previously not provided. The rest of the changes are editorial in nature. None of the above changes will result in a significant reduction in any margin of safety.

Based on the above considerations, the Commission proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

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NRC Project Director: Walter R. Butler

Pennsylvania Power and Light Company, Docket No. 50-388 Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: June 23, 1989

Description of amendment request: The amendment request proposes changes to Susquehanna Steam Electric Station (SSES) Unit 2 Technical Specifications to incorporate the interim NRC requirements as outlined in Bulletin 88-07, Supplement 1, "Power Oscillations in Boiling Water Reactors (BWRs)". The revisions will replace the existing Technical Specifications requirements to detect and suppress power oscillations and to clarify Actions and Surveillance requirements. Specifically, the licensee has proposed the following changes.

- Specification 3.4.1.1.1: Rewrite the LCO statement to read as follows:

3.4.1.1.1 Two reactor coolant system recirculation loops shall be in operation with the reactor at a THERMAL POWER/core flow condition outside of Regions I and II of Figure 3.4.1.1.1-1.

Add Footnote "+" to OPERATIONAL CONDITION 2 in the APPLICABILITY.

Replace ACTIONS a, b, and c with the following new actions:

a. In OPERATIONAL CONDITION 1:

1. With:

a) No reactor coolant system recirculation loops in

operation, or

b) Region I of Figure 3.4.1.1.1-1 entered, or

c) Region II of Figure 3.4.1.1.1-1 entered and core thermal hydraulic instability occurring as evidenced by:

1) Two or more APRM readings oscillating with at least one oscillating greater than or equal to 10% of RATED THERMAL POWER peak-to-peak, or

2) Two or more LPRM upscale alarms activating and deactivating with a 1 to 5 second period, or

3) Observation of a sustained LPRM oscillation of greater than 10w/cm² peak-to-peak with a 1 to 5 second period, or

d) Region II of Figure 3.4.1.1.1-1 entered and less than 50% of the required LPRM upscale alarms OPERABLE, immediately place the reactor mode switch in the shutdown position.

2. If Region II of Figure 3.4.1.1.1-1 is entered and greater than or equal to 50% of the required LPRM upscale alarms OPERABLE, immediately exit the region by:

a) inserting a predetermined set of high worth control rods, or

b) increasing core flow.

3. With less than 50% of the required LPRM upscale alarms OPERABLE, follow ACTION a.1.d upon entry into Region II of Figure 3.4.1.1.1-1.

b. In OPERATIONAL CONDITION 2 with no reactor coolant system recirculation loops in operation, return at least one reactor coolant system recirculation loop to operation, or be in HOT SHUTDOWN within the next 6 hours.

c. With any pump discharge valve not OPERABLE, remove the associated loop from operation, close the valve and comply with the requirements of Specification 3.4.1.1.2.

d. With any pump discharge bypass valve not OPERABLE, close the valve and verify closed at least once per 31 days.

- Footnote "***": Delete.
- Footnote "+": Add new Footnote to read as follows:

The LPRM upscale alarms are not required to be OPERABLE to meet this specification in OPERATIONAL CONDITION 2.

- Specification 4.4.1.1.1.2: Delete the requirement.
- Specification 4.4.1.1.1.3: Redesignate this Specification as 4.4.1.1.1.2.
- Specification 4.4.1.1.1.4: Replace the existing requirement with the following:

4.4.1.1.1.3 At least 50% of the required LPRM upscale alarms shall be determined OPERABLE by performance of the following on each LPRM upscale alarm:

1) CHANNEL FUNCTIONAL TEST at least once per 92 days, and

2) CHANNEL CALIBRATION at least once per 184 days.

- Figure 3.4.1.1.1-1: Replace with new figure entitled "Thermal Power Restrictions".
- Specification 3.4.1.1.2: Revise the introductory part of the LCO statement to read as follows:

3.4.1.1.2 One reactor coolant recirculation loop shall be in operation with the pump speed [less than or equal to] 80% of the rated pump speed, and the reactor at a THERMAL POWER/core flow condition outside of Regions I and II of Figure 3.4.1.1.1-1, and ...

Also, delete 3.4.1.1.2 b and c. (Other changes to page 3/4 4-1c are provided for information only; they were previously provided in the referenced proposed amendment.)

Add Footnote "+" to OPERATIONAL CONDITION 2 in the APPLICABILITY.

Delete ACTIONS a, c, and e and add the following new actions:

a. In OPERATIONAL CONDITION 1:

1. With:

a) No reactor coolant system recirculation loops in operation, or

b) Region I of Figure 3.4.1.1.1-1 entered, or

c) Region II of Figure 3.4.1.1.1-1 entered and core thermal hydraulic instability occurring as evidenced by:

1) Two or more APRM readings oscillating with at least one oscillating greater than or equal to 10% of RATED THERMAL POWER peak-to-peak, or

2) Two or more LPRM upscale alarms activating and deactivating with a 1 to 5 second period, or

3) Observation of a sustained LPRM oscillation of greater than 10w/cm² peak-to-peak with a 1 to 5 second period, or

d) Region II of Figure 3.4.1.1.1-1 entered and less than 50% of the required LPRM upscale alarms OPERABLE, immediately place the reactor mode switch in the shutdown position.

2. If Region II of Figure 3.4.1.1.1-1 is entered and greater than or equal to 50% of the required LPRM upscale alarms OPERABLE, immediately exit the region by:

a) inserting a predetermined set of high worth control

rods, or

b) increasing core flow by increasing the speed of the operating recirculation pump.

3. With less than 50% of the required LPRM upscale alarms OPERABLE, follow ACTION a.1.d upon entry into Region II of Figure 3.4.1.1.1-1.

b. In OPERATIONAL CONDITION 2 with no reactor coolant system recirculation loops in operation, return at least one reactor coolant system recirculation loop to operation, or be in HOT SHUTDOWN within the next 6 hours.

e. With any pump discharge valve not OPERABLE, remove the associated loop from operation, close the valve and verify closed at least once per 31 days.

f. With any pump discharge bypass valve not OPERABLE, close the valve and verify closed at least once per 31 days.

Redesignate current ACTION b as c.

- Specification 4.4.1.1.2.2: Replace the existing requirement with the following:

4.4.1.1.2.2 At least 50% of the required LPRM upscale alarms shall be determined OPERABLE by performance of the following on each LPRM upscale alarm:

1) CHANNEL FUNCTIONAL TEST at least once per 92 days, and

2) CHANNEL CALIBRATION at least once per 184 days.

- Specification 4.4.1.1.2.4: Delete and renumber accordingly.
- Specification 4.4.1.1.2.6: Delete and renumber accordingly.
- Specification 4.4.1.1.2.8: Delete and renumber accordingly.
- Footnote "***": Delete.
- Footnote "+": Add new Footnote to read as follows:

The LPRM upscale alarms are not required to be OPERABLE to meet this specification in OPERATIONAL CONDITION 2.

- Figure 3.4.1.1.2-1: Delete.
- Specification 3.4.1.4b: Revise to read as follows:

When only one loop has been idle, unless the temperature differential between the reactor coolant within the idle and operating recirculation loops is less than or equal to 50° F, the operating loop flow rate is less than or equal to 50% of rated loop flow and the reactor is operating at a THERMAL POWER/core flow condition below the 80% Rod Line shown in Figure 3.4.1.1.1-1.

The Index and Bases sections have been updated on the marked-up pages consistent with the above described changes.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a

new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and concurs with the following basis and conclusion provided by the licensee in its June 23, 1989 submittal.

The following three questions are addressed below for each of the proposed Technical Specification changes:

I. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

II. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

III. Does the proposed change involve a significant reduction in a margin of safety?

• Specification 3/4.4.1.1.1, Recirculation Loops - Two Loop Operation

This specification has been revised to replace the existing stability controls on the recirculation system with (at a minimum) those recommended in NRC Bulletin 88-07, Supplement 1.

I. No. The changes to the LCO provide the appropriate limits to ensure that proper actions are taken if SSES Unit 2 is operating in a region of the power/flow map where an instability is more likely to occur. The boundaries of these regions are based upon NRC approved limits for ANF methodology.

Action a is deleted as an editorial change; its purpose as a cross reference is adequately covered by the Applicability sections for the two-loop and single-loop specifications.

New Action a.1 requires when operating in Operational Condition 1 an immediate manual scram if operation in natural circulation occurs, if Region I of the new Figure "Thermal Power Restrictions" is entered, if power range monitoring instrumentation exhibits evidence of instability or if Region II of the Figure is entered and inadequate instability monitoring capability is available. These actions will ensure that the MCPR Safety Limit is not violated, so that an increase in the consequences of an accident previously evaluated will not occur.

Action a.2 requires an immediate exit of Region II if entered. This is consistent with the Bulletin, and does not require an immediate scram because no indications of power oscillation have occurred. Action a.3 is provided simply to avoid entry into Specification 3.0.3 should new Surveillance 4.4.1.1.1.4 be failed. It is not appropriate for any more restrictive requirements to be applied to these alarms when the unit is operating outside Regions I and II.

New Action b reflects the current requirements associated with natural circulation operation in Operational Condition 2 and clarifies that a recirculation loop may be attempted to be returned to service during the allowed outage time. This change is an administrative clarification.

New Actions c and d incorporate actions that previously appeared as Surveillance Requirements. This transfer is proposed in order to avoid invoking Specification 3.0.3 due to the lack of a specific action if the pump discharge or bypass valves failed. These "new" actions and the associated deletion of Surveillance Requirement 4.4.1.1.1.1 are entirely administrative in nature.

New Footnote "+" was added to clarify that the LPRM upscale alarms are not required to be operable in Operational Condition 2 since an instability event is not a concern at low power levels.

Existing Surveillance 4.4.1.1.1.4 is deleted since a baseline noise level will no longer be used to detect and suppress power oscillations. The new surveillance is provided to ensure operability of the newly required LPRM upscale alarms, and frequencies of testing were chosen based on NRC approved methods for determining surveillance internals for similar instrumentation (ref. GE NEDC 30851P-A).

Based on the above, none of the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated. The stability related changes are consistent with current NRC guidance and approved analytical methods where applicable, and the transferring of certain surveillances to actions will preclude unnecessary shutdowns due to Specification 3.0.3.

II. No. The proposed changes relating to stability use the current guidance contained in NRC Bulletin 88-07 Supplement 1, which will ensure that a new or different kind of event will not occur. They accomplish this by requiring reactor scrams in unstable regions and additional instability detection capability.

The editorial changes shifting Surveillance Requirements to Actions cannot create a new event.

III. No. See I above. The stability changes are designed to protect the margin of safety to the MCPR Safety Limit. The editorial changes improve safety margin by precluding unnecessary plant shutdowns.

• Specification 3/4.4.1.1.2, Recirculation Loops - Single Loop Operation

This specification has been revised to replace the existing stability controls on the recirculation system with (at a minimum) those recommended in NRC Bulletin 88-07, Supplement 1.

I. No. The changes to the LCO provide the appropriate limits to ensure that proper actions are taken if SSES Unit 2 is operating in a region of the power/flow map where an instability is more likely to occur. The boundaries of these regions are based upon NRC approved limits for ANF methodology.

Action a is deleted as an editorial change; its purpose as a cross reference is adequately covered by the new Actions a and b.

New Action a.1 requires an immediate manual scram when operating in Operational Condition 1 if operation in natural circulation occurs, if Region I of the new Figure "Thermal Power Restrictions" is entered, if power range monitoring instrumentation exhibits evidence of instability, or if Region II of the Figure is entered and inadequate instability monitoring capability is available. These actions will ensure that the MCPR Safety Limit is not violated, so that an increase in the consequences of an accident previously evaluated will not occur.

Action a.2 requires an immediate exit of Region II if entered. This is consistent with the Bulletin, and does not require an immediate scram simply because no indications of power oscillation have occurred. This action does not allow the start of a recirculation loop to exit Region II. Action a.3 is provided simply to avoid entry into Specification 3.0.3 should new Surveillance 4.4.1.1.2.2 be failed. It is not appropriate for any more restrictive requirements to be applied to these alarms when the unit is operating outside Regions I and II.

New Action b reflects the current requirements associated with natural circulation operation in Operational Condition 2.

New Actions e and f incorporate actions that previously appeared as Surveillance Requirements. This transfer is proposed in order to avoid invoking Specification 3.0.3 due to the lack of a specific action if the pump discharge or bypass valves failed. These "new" actions and the associated deletion of Surveillance Requirements 4.4.1.1.2.6 and 4.4.1.1.2.8 are entirely administrative in nature.

New Footnote "+" was added to clarify that the LPRM upscale alarms are not required to be operable in Operational Condition 2 since an instability event is not a concern at low power levels.

The revision to existing Action b is purely editorial in nature.

Existing Actions c and e and Surveillance 4.4.1.1.2.2 are deleted since a baseline noise level will no longer be used to detect and suppress power oscillations. The new actions and surveillance are provided to ensure operability of the newly required LPRM upscale alarms, and frequencies of testing were chosen based on NRC approved methods for determining surveillance intervals for similar instrumentation (ref. GE NEDC 30851P-A).

Based on the above, none of the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated. The stability related changes are consistent with current NRC guidance and approved analytical methods where applicable, and the transferring of certain surveillances to actions will preclude unnecessary shutdowns due to Specification 3.0.3.

II. No. The proposed changes relating to stability use the current guidance contained in NRC Bulletin 88-07 Supplement 1 to ensure that an unanalyzed event will not occur. They accomplish this by requiring reactor scrams in unstable regions, additional instability detection capability, and precluding a recirculation pump start during single loop operation in a potentially unstable region of the power/flow map.

The editorial changes shifting Surveillance Requirements to Actions cannot create a new event.

III. No. See I above. The stability changes are designed to protect the margin of safety to MCPR Safety Limit. The editorial changes

improve safety margin by precluding unnecessary plant shutdowns.

• Specification 3.4.1.4, Idle Recirculation Loop Startup

Action a has been revised to clarify the thermal power/core flow condition where an idle recirculation loop can be started.

I. No. This requirement is consistent with new Action a.2 of Specification 3.4.1.1.2, Single Loop Operation which was reviewed above. The requirement to preclude a recirculation pump start in a potentially unstable region of the power/flow map will ensure that a new or different kind of event will not occur, and is consistent with the guidance in NRC Bulletin 88-07 Supplement 1.

II. No. See I above.

III. No. See I above.

Based on the above considerations, the Commission proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-277, Peach Bottom Atomic Power Station, Unit No. 2, York County, Pennsylvania

Date of application for amendment: May 15, 1989

Description of amendment request: The licensee requests that the Technical Specifications be modified to reflect the results of material analyses conducted as part of the reactor coolant pressure boundary material surveillance program pursuant to 10 CFR 50, Appendix G and Appendix H. The requested changes will alter the reactor vessel pressure-temperature operating limits. Miscellaneous administrative changes are also proposed.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee has provided a discussion of the proposed changes as they relate to these standards; the discussion is presented below.

Standard 1: The proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated because the revised thermal and pressurization limits prohibit conditions where brittle fracture of reactor vessel materials is possible. Consequently, there will be no increase in the probability or consequences of previously evaluated accidents since the primary coolant pressure boundary integrity will be maintained as assumed in the safety design analyses.

The RT_{NDT} used to evaluate the new pressure/temperature limits for the beltline material was based on the guidance in Regulatory Guide 1.99, Revision 2, which is the latest guidance on RT_{NDT} determinations. The revised pressure/temperature limits curves were conservatively generated in accordance with the fracture toughness requirements of 10 CFR 50, Appendix G, as supplemented by Appendix G to Section III of the ASME Boiler and Pressure Vessel Code. The proposed minimum allowable temperature at which head bolting studs may be under tension is also in accordance with 10 CFR 50, Appendix G, as supplemented by Appendix G to Section III of the ASME Boiler and Pressure Vessel Code.

Removal of Figure 3.6.4 is of no safety significance because it was for information only and is no longer appropriate.

Standard 2: The proposed revisions do not create the possibility of a new or different kind of accident from any accident previously evaluated because the revised thermal and pressurization limits do not create any new kind of operating mode or introduce any new potential failure mode. Conditions where brittle fracture of primary coolant pressure boundary materials is possible will be avoided. The proposed changes reduce the conservative margin that was incorporated into the development of the current limits. The current limits have been shown by review of material characteristics and by more recent and more accurate tests and analyses to be overly restrictive.

Standard 3: The proposed revisions do not involve a significant reduction in a margin of safety because the proposed pressure/temperature limits still provide sufficient safety margin. The revised pressure/temperature limits, although less restrictive than the current limits, were established in accordance with current regulations and the latest regulatory guidance on RT_{NDT} determinations. Thus, the proposed changes merely reduce overconservative limits to acceptable limits. Because operation will be within these limits, the reactor vessel materials will behave in a non-brittle manner, thus, preserving the original safety design bases.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis.

Accordingly, the Commission has proposed to determine that the above changes do not involve a significant hazards consideration.

The licensee also proposes certain administrative changes to the technical Specification pages involved with the changes discussed above. These administrative changes include rewording TS 3.6.A.3 to more accurately describe the vessel materials and appertainances involved, revision of the "neutron flux specimen" terminology on TS 4.6.A.2 to "surveillance specimen", revisions to TS page 144 to reflect removal of a surveillance capsule, deletion of referral to a figure that is proposed to be removed, addition of Figure 3.6.5 to the list on TS page iv(a), revision of the Bases and other changes of a formatting and typographical nature. The Commission has provided guidance for the application of the criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (51 FR 7751). These examples include: Example (i) "A purely administrative change to technical specification: for example, a change to achieve consistency throughout the technical specifications, corrections of an error, or a change in nomenclature." These proposed changes are examples of such administrative changes and since these proposed changes are encompassed by an example for which no significant hazard exists, the staff has made a proposed determination that it involves no significant hazards consideration.

Local Public Document Room Location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for Licensee: Troy B. Conner, Jr. 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Walter R. Butler

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: May 31, 1989

Description of amendment request: The proposed amendment would modify the Low Pressure Coolant Injection (LPCI) System surveillance test requirements to reflect the Recirculation System loop selection logic modification installed during the Reload 1/Cycle 2 refueling outage. Other changes to

various surveillance test requirements throughout the Technical Specifications (TS) would, where appropriate, replace the term "demonstrate" with the term "verify" so that each term is used consistently according to stated guidelines. The effect would be to reduce the need for redundant and unnecessary tests when related equipment is made or found to be inoperable.

The proposed change to reflect the loop selection modification would affect Specification 4.5.A.3 by replacing the LPCI test criteria which states that "three Residual Heat Removal (RHR) pumps shall deliver at least 23,100 gpm against a system head corresponding to a reactor vessel pressure of 20 psig" with the criteria which states that "each RHR pump shall deliver at least 9,900 gpm against a system head corresponding to a reactor vessel to primary containment differential pressure of greater than or equal to 20 psid." Other related changes would affect Specifications 3.5.A.3, 4.5.A.2, 4.5.A.3.a, 4.5.A.3.b, 3.5.A.3.b, 4.5.B.1 and 3.5.A Bases to reflect the change from the "LPCI mode" concept to the division of the LPCI system into two subsystems which then incorporate actions which would be necessary if one of these subsystems is made or found to be inoperable. Thus, the criteria is similar to the Core Spray System/Subsystem criteria, Limiting Conditions for Operation, and Surveillance Test Requirements. No system changes are required.

The other proposed change, the appropriateness of replacing the word "demonstrate" with the word "verify," was evaluated throughout the TS. Where a specification requires testing at a specific frequency or the intent is clearly to require performance of an actual test to determine component or system operability, no TS change was proposed and the word "demonstrate" is retained. However, if the TS criteria is such that operability could be determined by ensuring that the associated surveillance tests have been performed with satisfactory results within the specified time interval, the term "verify" is proposed. For example, Specification 4.10.D.1.b requires a shutdown margin demonstration when two control rods are withdrawn from the reactor core for maintenance. Since the intent of the requirement is to perform a test, no change was made (demonstration was retained). In contrast, if a subsystem or component is inoperable, the proposed change would delete the requirement to actually perform a test of redundant systems or equipment to prove operability if the surveillance tests have been performed within the required test interval (verify is used). This change does not affect the existing normal surveillance testing requirements, nor does it affect the testing performed when equipment is returned to service from an inoperable condition.

Other proposed changes would incorporate related modifications to various Bases sections where needed. Also, Bases 4.5 would be modified to eliminate the discussion concerning required testing which is based on the degree of operability and nature of the reason for out of service equipment. This would be replaced with: "Consistent with the definition of operable in Section 4.0.C, demonstrate means conduct a test to show; verify means that the associated surveillance activities have been satisfactorily performed within the specified time interval."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards provided above and has made the following determination:

A. LPCI Pump Flow Surveillance

Operation of the FitzPatrick Plant in accordance with the proposed Amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92 since it would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because the technical specification changes are administrative in nature.

The new minimum allowable LPCI (RHR) pump flows are the same values used in the current licensing reload analyses. No accidents as analyzed in the FSAR [Final Safety Analysis Report] are adversely affected by these changes.

The LPCI modifications associated with these changes improved the overall reliability of the LPCI system. These changes update plant modifications that have already been reviewed and approved by the NRC in Operating License Amendments 8, 14 and 30.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the changes are administrative in nature. The minimum LPCI pump flows proposed in this application are the same as used in recent licensing reload analyses. LPCI's ability to mitigate a loss of coolant accident has been improved through the elimination of the most limiting equipment failure.

3. Involve a significant reduction in margin of safety because the changes are administrative. Analyses reviewed and approved by the NRC clearly show that the associated LPCI loop-selection-logic modification improve LPCI's ability to perform its intended function and therefore the margin of safety.

B. Demonstrate/Verify Terminology

Operation of the FitzPatrick Plant in accordance with the proposed Amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92 since it would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. This change is administrative in nature: it improves consistency within the Technical Specifications and with the NRC established positions on equipment operability. No accidents as analyzed the FSAR are adversely affected by these changes since these changes do not involve a modification to the plant or Operating Procedures.

The effectiveness of surveillance testing has not been reduced by these changes. The actual reduction in test frequency is not significant. Verification is adequate to assure that the system is capable of performing its intended function. Less frequent tests will reduce wear and tear on components and will reduce the probability of inadvertently leaving the tested system misaligned.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the change is administrative. No modifications to the structures, systems or components are associated with these changes. Minor changes to plant operating procedures may be required to reflect this definition of operable.

3. Involve a significant reduction in a margin of safety because no modifications to any plant structures, systems or components are associated with these changes. Minor changes to plant operating procedures may be required to reflect this definition of operable.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Public Service Company Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Weld Country, Colorado

Date of amendment request: June 9, 1989

Description of amendment request: This amendment request addresses early shutdown of Fort St. Vrain. It prohibits the plant from being operated in the power mode after June 30, 1990.

Basis for proposed no significant hazards consideration determination: The licensee has submitted a no significant hazards consideration analysis in accordance with the requirements of 10 CFR Parts 50.91 and 50.92. The licensee's analysis of significant hazards considerations follows:

This amendment request is prompted by NRC letter, Heitner to Williams, dated 04/19/89 (G-89137). That letter advised PSC of the need for an amendment to Facility Operating License No. DPR-34; to wit: "The licensee is not authorized to operate the reactor (above 5 percent of full power) for electric power production after June 30, 1990." PSC proposes a modification to the NRC's suggested amendment statement to reflect a more conservative 2% power restriction after shutdown.

The proposed change does not involve a significant hazards consideration because operation of FSV in accordance with this change would not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated. The early shutdown of Fort St. Vrain will not adversely affect any plant system design or function, nor will it adversely affect safety.

2. create the possibility of a new or different kind of accident from any accident previously evaluated. The early shutdown of Fort St. Vrain will not result in any new failure modes.

3. involve a significant reduction in a margin of safety. The early shutdown of Fort St. Vrain will have no adverse effects on any margin of safety. Inclusion of this amendment in the license is based on an NRC request.

Additionally, the restriction included in this proposed change prohibiting operation above 2% of full power further avoids any significant hazards consideration. Although PSC does not intend to take the reactor critical after final shutdown, and unforeseen circumstances requiring criticality would be accommodated by the 2% power level restriction. Long term operation at 2% power or any other power level is not being proposed. Remaining below 2% avoids any significant heat being added to the core.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Attorney for licensee: J.K. Tarpey, Public Service Company Building, Room 900, 550 15th Street, Denver, Colorado 80202

NRC Project Director: Frederick J. Hebdon

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: June 6, 1989

Description of amendment request: The proposed amendment would (A) increase the hydrostatic pressure from 1.0 P(a) to 1.10 P(a) for containment isolation valves provided with a water seal from the suppression pool, (B) clearly define as-left penetration leakage for these same valves, and (C) delete an incorrect cross-reference in Section 4.6.1.2.i.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. In accordance with 10 CFR 50.92 the licensee has reviewed the proposed changes and has concluded as follows that they do not involve a significant hazards consideration:

The proposed changes to the [Hope Creek Generating Station (HCGS)] Technical Specifications:

1. Do not involve a significant increase in the probability or consequences of an accident previously evaluated.

A. The maximum calculated accident pressure for the drywell is identified in UFSAR Section 6.2.1.1.3.1 as 48.1 psig (P(a)). This pressure is assumed to occur in the event of a design basis accident, a recirculation system line break. UFSAR Section 15.6.5.5.1.2.2 assumes that the radiological consequences associated with such an accident are in part limited by the integrity of the primary containment. Since the subject valves form a part of the primary containment, it is necessary to periodically test their leakage. The proposed change simply increases the hydrostatic test pressure and does not affect the 10 gpm TS leakage criteria nor alter the TS required actions in the event that such a limit is exceeded. Any leakage associated with the subject valves would still be into a closed system outside primary containment from which leakage is still processed and filtered by the Filtration, Recirculation, and Ventilation System (FRVS) in the Reactor Building prior to discharge to the environment. Again this change does not affect the function of the FRVS nor the leakage criteria from engineered safety features components outside the primary containment.

10 CFR 50, Appendix J, Paragraph III.C.2 requires a hydrostatic test pressure of 110% of the maximum calculated accident pressure. In the case of HCGS, this requirement translates into a test pressure of 52.9 psig. However, the HCGS TS currently only specify. a test pressure of 1.0 P(a), 48.1 psig; therefore, a TS change is necessary to comply with Appendix J testing requirements.

From the discussion provided, PSE&G has concluded that the proposed change involves an additional limitation - namely that the subject valves must be capable of withstanding a test pressure 10% greater than that currently required while still only permitted to leak, in total, no more than 10 gpm. Since the proposed change does not affect this leakage criteria nor the actions required in the event the criteria is not met, PSE&G has concluded that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. PSE&G has been and will continue to test and measure the leakage associated with each containment penetration in order to assure that containment integrity is maintained. However, the wording of TS 3.6.1.2.e could be misconstrued to require hydrostatic leakage from each in-series containment isolation valve to be included in the total leakage criteria of 10 gpm. Such an interpretation ignores the fact that leakage associated with such a penetration is calculated using the valve with the highest leakage. Therefore, the proposed change would provide sufficient clarity to correctly permit penetration leakage rates to be used in the 10 gpm leakage criteria. Since this change does not affect the physical condition associated with penetration leakage nor the criteria for total hydrostatic leakage, PSE&G has concluded that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

C. The proposed change is administrative in nature and does not affect the requirement to demonstrate operability of purge supply and exhaust valves with resilient seals. Therefore, PSE&G has concluded that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve any plant modifications other than the increase in

the test pressure for the subject valves. In addition, the testing configuration is not changing and the results of hydrostatic tests must still meet the 10 gpm leakage criteria stipulated in the TS. The requirements specified in the associated TS Action Statements should leakage exceed the acceptance criteria are not affected by the proposed changes. As a result, PSE&G has concluded that the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do not involve a significant reduction in a margin of safety.

The proposed changes are necessary to: (a) comply with the requirements of 10 CFR 50, Appendix J, (b) clearly indicate the method of determining total hydrostatic leakage, and (c) correct administrative errors in the TS. As a result, the margin of safety is not compromised by the proposed changes. In the case of the increased test pressure, an additional margin of safety is provided since testing hydrostatically sealed valves at a test pressure 10% greater than the maximum accident pressure provides greater assurance that the maximum leakage expected from the valve(s) will not exceed conditions expected to occur during or following an accident. As a result, PSE&G has concluded that the proposed changes do not involve a significant reduction in a margin of safety.

As discussed above, PSE&G has concluded that the proposed changes to the Technical Specifications do not involve a significant hazards consideration since the changes (i) do not involve a significant increase in the probability or consequences of an accident previously evaluated, (ii) do not create the possibility of a new or different kind of accident from any accident previously evaluated, and (iii) do not involve a significant reduction in a margin of safety.

The staff reviewed the licensee's determination that the proposed license amendment involves no significant hazards consideration and agrees with the licensee's analysis. Accordingly, the staff proposes to determine that the proposed license amendment does not involve a significant hazards consideration.

Local Public Document Room location: Pennsville Public library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: June 8, 1989

Description of amendment request: The licensee has proposed to modify the Action Statement of the original request (dated September 12, 1988 and noticed on February 22, 1989, 54 FR 7645) to require plant shutdown after 30 days with 1, 2, or 3 vent paths inoperable and to require plant shutdown after 72-hours with 4 vent paths inoperable.

Basis for proposed no significant hazards consideration determination: The original proposal would have allowed operation of the plant up to 30 days with 4 vent paths inoperable. The new proposal changes the Action Statements to require plant shutdown after 72-hours with 4 vent paths inoperable. The addition of this Action Statement is more conservative and follows more closely the guidance of Generic Letter 83-37.

In the initial request the licensee had determined that the proposed change did not constitute a significant hazards consideration. The staff reviewed the licensee's analysis and concurred with the licensee's determination that the proposed amendment did not involve a significant hazards consideration. The staff had proposed to determine that the proposed amendment involves no significant hazards consideration [54 FR 7645 dated February 22, 1989].

The licensee has reviewed the original Significant Hazards Consideration and determined ...

the original Significant Hazards Consideration remains valid and that the proposed changes do not constitute a Significant Hazards Consideration.

The staff has reviewed the licensee's analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration and the original significant hazards consideration remains valid. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: October 16, 1987

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS's) relating to organization of facility staff. Specifically, the proposed amendment would involve Technical Specification Sections 6.2.2b and 6.2.2c, licensed operator staffing, and Table 6.2-1. (Table 6.2-1 has been deleted per amendment No. 115). The amendment requested that the appropriate Technical Specifications be revised to reflect existing operating procedures which require at least one operator to be in the control panel area when fuel is in the reactor, at least two licensed operators, one of which is a licensed senior operator, to be in the Control Room while the plant is in operational modes 1 thru 4, and at least two senior operators to be onsite while the plant is in modes 1 thru 4. This request is in compliance with the NRC requirement addressed in 10 CFR Part 50.54, paragraphs (m) and (k) which address licensed operator staffing at nuclear power plants.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards, 10 CFR 50.92, for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided the following analysis in support of a no significant hazards consideration determination:

The proposed changes would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the addition of the proposed changes increases both the number and qualification requirements of control room operators necessary to satisfy the minimum shift crew requirements. These changes support the likelihood of detecting abnormal events early enough to mitigate potentially adverse conditions.

Also, the proposed changes would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because these changes which increase control room staffing requirements do not create the possibility of a new or different kind of accident.

Finally, the proposed changes would not (3) involve a significant reduction in a margin of safety because the proposed

changes increase the control room staffing requirements and, therefore, will not reduce the margin of safety.

The NRC staff has reviewed the licensee's proposed no significant hazards determination and agrees with the licensee's analysis.

Furthermore, the Commission has provided guidance concerning the application of criteria for determining whether a significant hazards consideration exists by providing certain examples of actions involving no significant hazards consideration (51 FR 7751). As stated in example (vii), "A change to conform a license to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations." The proposed changes associated with this amendment are within the scope of this example.

Accordingly, the staff proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: February 2, 1989

Description of Amendment request: The proposed amendment deletes valves RHR-32, RHR-33 and Reactor Head Spray Check Valve 10-29 from Table 4.7.2.b of the Technical Specifications. This table pertains to primary containment isolation valves not subject to Type C leakage tests. RHR-32 and -33 are in a line that is closed off by a blank flange, thus, no longer require surveillance testing. Check Valve 10-29 is in a disconnected line that no longer serves any function.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards in 10 CFR 50.92 and has determined the following:

The removal of the Reactor Vessel Head Spray Valves (RHR-32 and RHR-33) from Table 4.7.2.b of the Technical Specifications will simply remove the requirement to test the valves to ensure they will close if needed to isolate the primary containment. Since the valves are maintained closed and this amendment would remove the requirement to open the valves for these surveillances, further assurance is provided that the valves will remain in their isolated position. The removal of the check valve (10-29) from the Table will ensure continuity in the Technical Specifications in recognizing that the Reactor Head Spray function has been disconnected. Thus, the proposed change does not involve an increase in the probability or consequences of an accident previously evaluated. Operation of the RHR System is not reduced from existing requirements and is still bounded by the assumptions used in the safety analysis, thus the proposed change does not create the possibility of a new or different kind of accident from any event previously evaluated. Elimination of subject surveillances will remove the requirement to open the motor-operated valves, which will ensure that the integrity of this penetration is maintained at all times. Thus, the proposed change involves no decrease in any plant margin of safety.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Based on this review, the staff therefore determines that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for License: John A. Ritsher, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: Richard H. Wessman

Vermont Yankee Nuclear Power Corporation Docket No. 50-271 Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: April 27, 1989 and June 23, 1989.

Description of amendment request: The proposed amendment would extend the expiration date of the Operating License from December 11, 2007 to March 21, 2012.

Section 103.c of the Atomic Energy Act of 1954 authorizes the issuance of facility operating licenses for a period of up to 40 years. The current license term for the Vermont Yankee facility began with the date of issuance of the construction permit, December 11, 1967, and ends on December 11, 2007. Accounting for the four years and three months required for plant construction, this represents an effective operating license term of only 35 years and 9 months.

Current NRC policy is to issue operating licenses for a 40-year period, commencing with the date of issuance of the operating license. For Vermont Yankee, this date was March 21, 1972. Accordingly, it is proposed that the Vermont Yankee operating license be amended to change the expiration date to March 21, 2012 consistent with current NRC policy and the originally engineered design life of the plant.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequence of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee's analyses contained in the April 27, 1989 letter states the following:

The proposed amendment to the Vermont Yankee operating license does not involve any changes in the design or operation of the facility, but instead, only contemplates a change to the expiration date of the current license. This extension is within the range permissible by the Commission's regulations, specifically 10 CFR, Section 50.51. In addition, a finding of no significant hazards consideration is consistent with recent NRC actions on applications of this type. The proposed extension will have no significant impact on the safe operation of the plant or present an undue risk to the health and safety of the public.

The proposed license amendment to permit the 40-year operating life does not constitute a significant hazards consideration as defined in 10 CFR, Section 50.92 for the following reasons:

a. The proposed amendment does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Age-related degradation was identified as the only mechanism having potential impact on the probability of occurrence of an accident previously evaluated. Changes in the population size and distribution were identified as the only parameter having

potential impact on previous conclusions concerning the consequences of an accident previously evaluated.

Conservatisms have been incorporated, in the design, construction, and operations of the Vermont Yankee facility. Furthermore, programs have been developed and implemented to: (1) evaluate and maintain the service life of structures, systems, and components; (2) conduct technical analyses for verifying the adequacy of structures, systems, and components; and/or (3) allow surveillance, maintenance, and inspection of the facility. Such programs assure that the Vermont Yankee facility will be operated as intended by its design and the Technical Specifications. That is, regardless of the age of the overall facility, these programs assure that the structures, systems, or components will be refurbished and/or replaced to maintain component functional capability and the margins of safety required by the Technical Specifications.

No changes to the above programs are necessary for assuring that during the proposed amendment term, Vermont Yankee continues to perform as intended by its design and Technical Specifications. Therefore, the proposed amendment will have no significant impact on plant safety.

In 1986, Vermont Yankee Nuclear Power Corporation conducted a study to update the population figures found in the Environmental Report and Final Safety Analysis Report and to project populations through the year 2012. As the report indicates, the projected population in the 50-mile area surrounding the Vermont Yankee facility is expected to remain unchanged during the proposed amendment term. There are no changes to the exclusion area boundaries, the increase in population in the Low Population Zone is projected as being negligible, and the nearest population center is expected to remain more than 1-1/3 times the current five-mile Low Population Zone (LPZ) radius from the facility as required by 10 CFR 100.11(a)(3). Based on the results of this study, the off-site exposures from releases due to postulated accidents are expected to remain well within the limits set forth in 10 CFR, Part 100.

Because there will not be significant changes in the population and its distribution surrounding the plant, and Vermont Yankee Nuclear Power Corporation will continue to operate the plant in accordance with its design and Technical Specifications, the potential radiological consequences of an accident previously evaluated remain unchanged.

The proposed amendment will not result in an increase in the probability or the consequences of an accident previously evaluated in the FSAR because: (1) facility operations will be continued in accordance with the facility's approved design and Technical Specifications, and (2) changes to the population and distribution surrounding Vermont Yankee are expected to be negligible and will not impact on the previously determined LPZ boundary.

b. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Conservatisms have been incorporated in the design, construction, and operations of Vermont Yankee. Furthermore, programs have been developed and continue to be implemented to assure that the facility is operated as intended by design and in accordance with the Technical Specifications. In particular, the In-Service Inspection/Testing, Environmental Qualification, and Maintenance Programs assure that facility structures, systems, and components will be refurbished or replaced, as appropriate. That is, regardless of the age of the facility, these programs ensure that structures, systems and components are refurbished and/or replaced to maintain component functional capability and the margins of safety required by the Technical Specifications. No changes to these programs are necessary for assuring that Vermont Yankee will continue to perform as designed and in accordance with the Technical Specifications during an additional four years and three months of operation. Therefore, there is no possibility that a different type of accident is created.

c. The proposed amendment does not involve a significant reduction in a margin of safety.

The margins of safety identified in the Technical Specifications have been incorporated into the facility's design, construction, and operations. With respect to operations, such margins are the basis for the facility operating and emergency procedures, as well as the Vermont Yankee In-Service Inspection/Testing, Environmental Qualification, and Maintenance Programs.

The inspection, surveillance, and maintenance requirements of these programs assure that, regardless of the age of the overall facility, the functional capabilities of structures, systems, and components will be maintained throughout the life of the facility through refurbishment and/or replacement, as appropriate, to meet the Technical Specifications. No changes to these programs are necessary to assure that during the additional four years and three months of operation, Vermont Yankee will continue to perform as intended by its design and the Technical Specifications.

Therefore, the proposed amendment does not reduce the margin of safety as defined in the Technical Specification bases.

Conclusion

Based on the above considerations, we contend that the extension of Vermont Yankee's operating license in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of accidents previously considered, nor create the possibility of a new or different kind of accident, and will not involve a significant reduction in a safety margin. Therefore, we conclude that there is no significant hazards consideration associated with the proposed amendment to the Vermont Yankee operating license.

The staff has reviewed the licensee's analysis and agrees with it. Therefore, we conclude that the amendment satisfies the three criteria listed in 10 CFR 50.92. Based on that conclusion the staff proposes to make a no significant hazards consideration determination.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: R. K. Gad, III, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: Richard H. Wessman

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear

Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: June 22, 1988

Description of amendments: The amendments delete the residual heat removal/service water discharge differential pressure instrument (transmitter and indicator) from the Technical Specifications for each unit.

Date of issuance: July 13, 1989

Effective date: July 13, 1989

Amendment Nos.: 135 and 165

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** May 31, 1989 (54 FR 23308). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 13, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units No. 2 and 3, Grundy County, Illinois

Date of application for amendments: February 22, 1989

Brief description of amendments: The proposed amendments replace the existing license conditions on fire protection with the standard condition noted in Generic Letter 86-10 and remove requirements for fire detection systems, fire suppression systems, fire barriers and fire brigade staffing requirements as per guidance contained in Generic Letters 86-10 and 88-12.

Date of issuance: June 30, 1989

Effective date: June 30, 1989 and to be implemented within 60 days

Amendment Nos.: 106 and 101

Provisional Operating License Nos. DPR-19 and DPR-25. The amendments revised the License and the Technical Specifications.

Date of initial notice in **Federal Register:** April 5, 1989 (54 FR 13762). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 30, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Unit Nos. 1 and 2, LaSalle County, Illinois

Date of application for amendments: October 7, 1988

Brief description of amendments: These amendments revise the LaSalle County Station, Units 1 and 2 Technical Specifications by allowing operation of both units with suppression pool temperatures of up to 105° F. The current suppression pool temperature limit during normal operation is 100° F.

Date of issuance: July 7, 1989

Effective date: July 7, 1989

Amendment Nos.: 67 and 49

Facility Operating License Nos. NPF-11 and NPF-18. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register** December 30, 1988 (53 FR 53090). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 7, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut; Northeast Nuclear Energy Company, et al; Millstone Units 1, 2, and 3, New London County, Connecticut

Date of application for amendment: March 13, 1989 as supplemented April 28, 1989.

Brief description of amendment: The amendments revise the Technical Specifications (TS) by removing Figure 6.2-1, Offsite Organization, and description of the offsite and onsite organizations functional requirements in TS 6.2.1 and facility staff qualifications in 6.2.2. In addition, TS 6.2.1, will also require that lines of authority, responsibility, and communication shall be defined, documented and updated for the onsite and offsite organizations in the Quality Assurance Topical Report.

Date of Issuance: June 26, 1989

Effective date: June 26, 1989

Amendment Nos.: 118, 33, 142 and 36

Facility Operating License Nos. DPR-61, DPR-21, DPR-65 and NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15825). By letter dated April 28, 1989 the licensee as discussed with the NRC staff, revised the Topical Report's organizational charts and provided a description of the Unit Superintendent's duties.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated June 26, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457, and Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: November 3, 1988

Brief description of amendments: The amendments modified the Technical Specifications by replacing Figure 3/4 7-1 "Nuclear Service Water System" with a more legible one and correcting a typographical error.

Date of issuance: July 10, 1989

Effective date: July 10, 1989

Amendment Nos.: 99 and 81

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 11, 1989 (54 FR 1021). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 10, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: April 21, 1989

Brief description of amendments: The amendments revise the Technical Specifications of both units to delete Table 4.5-5, "Reactor Vessel Material Irradiation Surveillance Schedule," and associated surveillance requirement 4.4.9.1.c. This table will be included in the Updated Final Safety Analysis Report of each unit. Meanwhile, there is no change in the reactor vessel material surveillance program, which will continue to be governed by 10 CFR 50, Appendix H.

Date of issuance: July 12, 1989

Effective date: July 12, 1989

Amendment Nos.: 142 for Unit 1; 18 for Unit 2

Facility Operating License Nos. DPR-66 and NPF-73. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 31, 1989 (54 FR 23312). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 12, 1989.

No significant hazards consideration comments received: No .

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: April 18, 1989, as supplemented on May 18, 1989 and June 19, 1989.

Brief description of amendment: This amendment removes cycle-specific core parameters from the Technical Specifications, adds a reference to a Core Operating Limits Report which contains cycle-specific parameter limits that have been established by NRC-approved methodology, and adds an administrative requirements to submit a Core Operating Limits Reports to the NRC prior to each core reload.

Date of Issuance: July 6, 1989

Effective date: July 6, 1989

Amendment No.: 150

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 17, 1989 (54 FR 21308). The May 18 and June 19, 1989 submittals were not noticed in the **Federal Register** because they provided clarifying wording in the amendment language and did not change the scope and intent of the original submittal.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated July 6, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: August 29, 1986 as revised May 2, 1989 and supplemented May 25, 1989.

Brief description of amendment: The amendment added Technical Specifications (TSs) for the Suppression Pool Pumpback System (SPPS) to TS 3/4.5.3, Suppression Pool. The Bases were also modified to add the SPPS.

Date of issuance: July 10, 1989

Effective date: July 10, 1989

Amendment No.: 38

Facility Operating License No. NPF-47. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 22, 1986 (51 FR 37512) superseded May 31, 1989 (54 FR 23314).

The May 24, 1989 submittal provided additional clarifying information and did not change the finding of the original notice or the scope of the amendment request.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Indiana Michigan Power Company, Dockets Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: March 4, 1989.

Brief description of amendments: These amendments revise the TSs to reflect the installation of a new meteorological monitoring system and provide proper reference to meteorological tower locations and the locations of instrumentation used for determining temperature, wind speed, and wind direction. The TS Bases are also revised to clarify the channel check requirements of the new meteorological monitoring system.

Date of issuance: July 5, 1989

Effective date: July 5, 1989

Amendments Nos.: 127 and 113

Facility Operating Licenses Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 5, 1989 (54 FR 13766). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 28, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: December 28, 1988 and as clarified by letter dated May 30, 1989.

Brief description of amendment: This amendment modifies the Operating License and the Technical Specifications to reflect the operating limits for the Cycle 11 operation at a power level of 2700 MWt.

Date of issuance: July 10, 1989

Effective date: The day of issuance.

Amendment No.: 113

Facility Operating License No. DPR-36. Amendment revised the Operating License and the Technical Specifications.

Date of initial notice in **Federal Register:** February 1, 1989 (54 FR 5165). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine 04578.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: October 19, 1988

Brief description of amendment: Amendment revises Technical Specifications 3.2.6 and 4.2.6 and their Bases to bring them into conformance with the staff positions delineated in NRC Generic Letter 88-01, "NRC Position on IGSCC in BWR Austenitic Stainless Steel Piping."

Date of issuance: July 7, 1989

Effective date: July 7, 1989

Amendment No.: 107

Facility Operating License No. DPR-63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 31, 1989 (54 FR 23316). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 7, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: June 3, 1988, as amended by letters dated September 26 and November 15, 1988.

Brief description of amendment: This amendment deletes Figure 6.2-1 "Management Organizational Chart," and Figure 6.2-2 "Nuclear Site Organization," in accordance with Generic Letter 88-06, "Removal of Organization Charts From Technical Specifications." Administrative changes to Section 6.1, 6.2, 6.5, 6.6, and 6.7 are included and Specification 6.9 is being revised to make the Unit 1 Specifications consistent with 10 CFR 50.4. By letter dated November 15, 1988, the licensee amended the amendment application to propose additional administrative changes to the Specifications. These changes reflect the creation of the position of Executive Vice President-Nuclear Operations. This title replaces all current references to Senior Vice President in the Specifications.

Date of issuance: July 10, 1989

Effective date: July 10, 1989

Amendment No.: 108

Facility Operating License No. NPF-63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 17, 1989 (54 FR 21311). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 1989.

No Significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

NRC Project Director: Robert A. Capra

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: November 4, 1988 as supplemented March 29, 1989

Brief description of amendment: The Amendment revised the Technical Specifications to permit operation of the reactor with one of two reactor recirculation loops in service under certain specified conditions.

Date of issuance: June 30, 1989

Effective date: Within 30 days of date of issuance.

Amendment No. 30

Facility Operating License No. NPF-39. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 8, 1989 (54 FR 9919). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 30, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: August 19, 1987

Brief description of amendment: The amendment extends the expiration date of the operating license from May 20, 2010 to October 17, 2014.

Date of issuance: July 10, 1989

Effective date: July 10, 1989

Amendment No.: 133

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** November 11, 1987 (52 FR 44247) and a corrected notice issued December 28, 1987 (52 FR 48891). The Commission prepared a Environmental Assessment and Finding of No Significant Impact which was published in the **Federal Register** on May 4, 1989 (54 FR 19265). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

NRC Project Director: Robert A. Capra

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: April 12, 1989

Brief description of amendment: Revised Technical Specifications Table 4.11.2.1.2-1, Table Notation (d), to reflect taking the tritium sample from the spent fuel pool area rather than from the ventilation exhaust.

Date of issuance: July 10, 1989

Effective date: July 10, 1989

Amendment No. 28

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 31, 1989 (54 FR 23322). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

System Energy Resources, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: April 18, 1989

Brief description of amendment: The amendment changes the Technical Specifications by increasing the suppression pool low water level trip setpoint and allowable value for actuation of the suppression pool makeup system.

Date of issuance: July 3, 1989

Effective date: July 3, 1989

Amendment No. 60

Facility Operating License No. NPF-29. This amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 31, 1989 (54 FR 23325). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 3, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Tennessee Valley Authority, Docket No. 50-260, Browns Ferry Nuclear Plant, Unit 2, Limestone County, Alabama

Date of application for amendment: February 24, 1989 (TS 263)

Brief description of amendment: The amendment changes calibration frequencies for instrument lines containing transmitters manufactured by Tobar, Inc. to more conservative intervals. It also includes administrative changes to instrument numbers, and deletes instrument checks for four instrument channels.

Date of issuance: July 7, 1989

Effective date: July 7, 1989, and shall be implemented within 60 days

Amendment No.: 167

Facility Operating License No. DPR-52: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 19, 1989 (54 FR 15838). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 7, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: April 17, 1986 (TS 89-16)

Brief description of amendments: The amendments revise Section 6, Administrative Controls, of the Sequoyah Nuclear Plant, Units 1 and 2, Technical Specifications (TS). The changes, to Specifications 6.2.3.2 and 6.2.3.4 for the Independent Safety Engineering Group (ISEG), limit the group to five full-time engineers and have thegroup report its recommendations to the Manager of Nuclear Manager's Review Group. The ISEG is also renamed to Independent Safety Engineering (ISE).

Date of issuance: July 5, 1989

Effective date: September 3, 1989

Amendment Nos.: 119, 108

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 17, 1989 (54 FR 21316). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 5, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Unit Nos. 1 and 2, Louisa County, Virginia

Date of application for amendment: June 17, 1987

Brief description of amendment: This amendment revises the NA-2 Technical Specifications (TS) in accordance with Virginia Electric and Power Company's Statistical DNBR Evaluation Methodology for a less restrictive negative moderator temperature coefficient.

Also, the continued use of these TS at NA-1 for Cycle 8 and Cycle 9, etc., is hereby approved.

Date of issuance: June 30, 1989

Effective date: June 30, 1989

Amendment No.: 100

Facility Operating License No. NPF-7: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 30, 1988 (53 FR 48339). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 30, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Virginia Electric and Power Company, et al., Docket No. 50-338, North Anna Power Station, Unit No. 1, Louisa County, Virginia

Date of application for amendment: November 30, 1988, as supplemented June 19, 1989.

Brief description of amendment: This amendment revises the heatup and cooldown curves and associated low temperature overpressurization setpoints to be valid for a period up to 10 effective full power years. In addition, the staff finds that the submittals supporting your amendment request comply with Generic Letter 88-11 and the methods specified in Regulatory Guide 1.99, Revision 2.

Date of issuance: June 30, 1989

Effective date: June 30, 1989

Amendment No.: 117

Facility Operating License No. NPF-4: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1988 (53 FR 53104). The June 19, 1989 letter provided supplemental information which did not change the staff's initial determination that the proposed amendment did not involve no significant hazards considerations.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 30, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Virginia Electric and Power Company, et al., Docket No. 50-339, North Anna Power Station, Unit No. 2, Louisa County, Virginia

Date of application for amendment: February 23, 1989

Brief description of amendment: This amendment modifies TS Table 3.8-1 by deleting components from the table which had previously been removed and by correcting one typographical error.

Date of issuance: July 7, 1989

Effective date: July 7, 1989

Amendment No.: 101

Facility Operating License No. NPF-7: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 3, 1989 (54 FR 18961). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 7, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: July 20, 1988

Brief description of amendments: The amendments clarify the NA-1&2 TS 3.4.6.1 regarding reactor coolant system leakage detection systems and bring the TS into closer agreement with Regulatory Guide 1.45 and Revision 4 of the Westinghouse Standard TS.

Date of issuance: July 7, 1989

Effective date: July 7, 1989

Amendment Nos.: 118 and 102

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 16, 1988 (53 FR 46160). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 7, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Dated at Rockville, Maryland, this 19th day of July, 1989.

For the Nuclear Regulatory Commission

Gus C. Lainas,

Acting Director, Division of Reactor Projects-I/II Office of Nuclear Reactor Regulation

[Doc. 89-17363 Filed 7-25-89; 8:45 am]

BILLING CODE 7590-01-D

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full

Committee, and of the ACNW, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published June 20, 1989 (54 FR 25919). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS full Committee and ACNW meetings designated by an asterick (*) will be open in whole or in part to the public. ACRS full Committee and ACNW meetings begin at 8:30 a.m. and ACRS Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS full Committee and ACNW meetings and when ACRS Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the August 1989 ACRS full Committee and the September 1989 ACNW meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 301/492-7288, ATTN: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

ACRS Subcommittee Meetings

Maintenance Practices and Procedures, August 8, 1989, Bethesda, MD. The Subcommittee will review the policy statement on maintenance and associated draft regulatory guide.

Seabrook, August 17, 1989, Bethesda, MD. The Subcommittee will review emergency plans for full power operation.

Regional Programs, August 29–30, 1989, King Of Prussia, PA (Region I Office). The Subcommittee will review the activities under the purview of the NRC Region I Office.

Joint Severe Accidents and Probabilistic Risk Assessment, September 19, 1989, Bethesda, MD. The Subcommittees will discuss the second draft of NUREG–1150, "Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants."

Advanced Pressurized Water Reactors, Date to be determined (August), Bethesda, MD. The Subcommittee will discuss the comparison of the WAPWR (RESAR SP/90) design with other modern plants (in U.S. and abroad).

Thermal Hydraulic Phenomena, Date to be determined (August), Bethesda, MD. The Subcommittee will review the proposed experimental program to investigate specific thermal hydraulic phenomena of the B&W OTSG.

Thermal Hydraulic Phenomena, Date to be determined (August), Bethesda, MD. The Subcommittee will review the NRC staff's proposed resolution of Generic Issue 84, "CE PORVs."

Advanced Pressurized Water Reactors, Date to be determined (August/September), Bethesda, MD. The Subcommittee will discuss the licensing review bases document being developed for Combustion Engineering's Standard Safety Analysis Report-Design Certification (CESSAR–DC).

Severe Accidents, Date to be determined (August/September), Bethesda, MD. The Subcommittee will discuss the NRC Severe Accident Research Program (SARP) plan.

Severe Accidents, Date to be determined (August/September), Bethesda, MD. The Subcommittee will discuss the proposed Generic Letter by NRR and the NRC research program in the accident management area.

Joint Containment Systems and Structural Engineering, Date to be determined (August/September), San Francisco, CA area. The Subcommittees will discuss containment design criteria for future plants with invited speakers from industry.

Joint Thermal Hydraulic Phenomena and Core Performance, Date to be determined (September), Bethesda, MD. The Subcommittees will continue their review of boiling water reactor core power stability pursuant to the core power oscillation event at LaSalle County Station, Unit 2.

Decay Heat Removal Systems, Date to be determined (November), Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 23, "RCP Seal Failures."

Systematic Assessment of Experience, Date to be determined (November/December), Bethesda, MD. The Subcommittee will review the proposed power increase for Indian Point Unit 2.

Decay Heat Removal Systems, Date to be determined, Bethesda, MD. The Subcommittee will explore the issue of the use of feed and bleed for decay heat removal in PWRs.

Thermal Hydraulic Phenomena, Dated to be determined, Bethesda, MD. The Subcommittee will discuss the status of Industry best-estimate ECCS model submittals for use with the revised ECCS Rule.

Auxiliary and Secondary Systems, Date to be determined, Bethesda, MD. The Subcommittee will discuss the: (1) Criteria being used by utilities to design Chilled Water Systems, (2) regulatory requirements for Chilled Water Systems design, and (3) criteria being used by the NRC staff to review the Chilled Water Systems design.

Extreme External Phenomena, Dated to be determined, Bethesda, MD. The Subcommittee will review planning documents on external events.

Reliability Assurance, Date to be determined, Bethesda, MD. The Subcommittee will discuss the status of implementation of the resolution of USI A–46, "Seismic Qualification of Equipment in Operating Plants," and other related matters.

Joint Regulatory Activities and Containment Systems, Date to be determined, Bethesda, MD. The Subcommittees will review the proposed final revision to Appendix J to 10 CFR Part 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors."

ACRS Full Committee Meetings

352nd ACRS Meeting, August 10–12, 1989—Items are tentatively scheduled.

*A. *Meeting with NRC Commissioners (Open)*—Discuss recent ACRS reports to NRC, including NRC's Human Factors Program and Initiatives (ACRS report dated May 9, 1989), Proposed Resolution of GI–128, Electric Power Reliability (ACRS reported dated June 14, 1989), Reliability and Diversity (ACRS reported dated June 14, 1989), Radiation Exposure of Skin from Hot Particles (ACRS reported dated May 9, 1989), and Boiling Water Reactor Core Stability (ACRS reported dated June 14, 1989).

*B. *NUMARC Activities (Open)*—Briefing by NUMARC represtantative regarding NUMARC and related industry activities applicable to the regulatory process and the NRC-industry interface.

*C. *NMSS Activities (Open/Closed)*—Meeting with Director, NMSS, to discuss items of mutual interest, including the nature/scope of NMSS activities.

*D. *NRC Policy Statement Regarding Maintenance of Nuclear Power Plants (Open)*—ACRS review and comment regarding proposed NRC policy statement.

*E. *General Electric Advanced Boiling Water Reactor (Open)*—Continue review of the design certification requested for this standardized nuclear plant.

*F. *Nuclear Power Plant Access Authorization (Open/Closed)*—Review and report on proposed NRC rule regarding control of access to restricted areas in nuclear power plants.

*G. *Technical Specifications (Open)*—Briefing regarding status of technical

specifications improvement program by NRC and the nuclear industry.

*H. *Analysis of Operational Data (Open)*—Briefing and discussion of NRC/AEOD review of the efforts to reduce the number of "scrams" in nuclear power plants.

*I. *Generic Issue 99, Improved Reliability of RHR Capability in PWRs (Open)*—Report by and discussion with NRC staff representatives regarding implementation of ACRS recommendations.

*J. *ACRS Subcommittee Activities (Open)*—Briefings and discussions regarding the status of assigned ACRS subcommittee activities, including integration of the nuclear regulatory process and performance of check valves in nuclear power plants.

*K. *Anticipated ACRS Activities (Open)*—Discuss anticipated ACRS subcommittee activities and items proposed for consideration by the full Committee.

*L. *Appointment of ACRS Members (Open/Closed)*—Discuss qualifications of candidates proposed for consideration as ACRS members.

*M. *Generic Issue C-8, Main Steam Isolation Valve Leakage and Leakage Control System Failures (Open)*—Review and report on proposed NRC resolution of this generic matter.

353rd, ACRS Meeting, September 7–9, 1989—Agenda to be announced.

354th, ACRS Meeting, October 5–7, 1989—Agenda to be announced.

ACNW Full Committee Meetings

ACNW Meeting, July 26–27, 1989—Cancelled.

ACNW Working Group Meeting on Mixed Wastes, August 4–5, 1989—Cancelled.

13th ACNW Meeting, September 13–15, 1989—The Committee will discuss the following topics:

A. *Center for Nuclear Waste Regulatory Analyses (Open)*—Briefing on the management and current activities of the Center, including recent CNWRA reports.

B. *Prototype License Application (Open)*—Briefing on the prototype license application for low-level waste facilities.

C. *Scoping Study PRA for Yucca Mountain (Open)*—Briefing by NMSS, RES, and Sandia staffs on the development of a scoping study PRA, including probability of major geologic events, for the Yucca Mountain site.

14th ACNW Meeting, October 11–13, 1989—Agenda to be announced.

Date: July 20, 1989.

Samuel J. Chilk,

Acting Advisory Committee Management Officer.

[FR Doc. 89-17499 Filed 7-25-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247]

Consolidated Edison Co. of New York, Inc.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-26, issued to Consolidated Edison Company of New York, Inc. (the licensee) for operation of Indian Point Nuclear Generating Unit No. 2 located in Westchester County, New York.

The proposed amendment would revise the Technical Specification to authorize operation of the plant with Hudson River (ultimate heat sink) water temperatures of up to a maximum of 95° F and with containment air temperatures of up to a maximum of 130° F when the reactor is operating. The licensee's application for this amendment is contained in its submittal of July 13, 1989.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided the following analysis of the proposed changes:

[Service Water System (SWS)] Temperature

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples in 51 FR 7751. Example (i) relates to a purely administrative change to Technical Specifications. The proposed change to Technical Specification 3.3.F.1.b and 3.3.F.2.b changes [two] LCO action requirements and wording to be consistent with other 350° F LCOs in our Technical Specifications. These proposed changes would also eliminate an unnecessary restriction (i.e., be below 200° F within 30 hours), because the LCOs 3.3.F.1.a and 3.3.F.2.a only apply above RCS temperature of 350° F. Also, changes to Technical Specification Bases 3.3 page 3.3–14 adds reference (12) and corrects a footnote error. Thus these proposed changes reflect such an example.

Example (ii) relates to a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The proposed changes to Technical Specification 3.3.F.4 and 3.3.F.5 impose new Limiting Conditions for Operation for service water inlet temperature and associated monitoring instrumentation. Additionally, changes to Technical Specification Table 4.1–1 imposes surveillance requirements for the service water inlet temperature monitoring instrumentation. Thus, these proposed changes reflect such an example.

Example (vi) relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some was a safety margin, but where the results of the change are clearly within all acceptable criteria. The proposed change to Technical Specification 5.2.C and Technical Specification Bases 3.3 pages 3.3–10 and 3.3–11 increases the limit on service water temperature from 85° F to 95° F and reflects such an example.

Therefore, in accordance with the requirements of 10 CFR 50.92, the proposed changes to Technical Specification 3.3.F, to Technical Specification 5.2.C, Technical specification table 4.1–1, and to technical Specification Basis 3.3 with respect to a maximum SWS inlet temperature of 95° F, are deemed to involve "No Significant Hazards Considerations" because operation of Indian Point Unit No. 2, in accordance with these changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

With respect to a significant increase in the probability of an accident previously evaluated, [the safety analysis provided with this submittal] analyzed the cooling provided to safety-related and non-safety-related equipment by the SWS and [Component Cooling Water System (CCWS)] during normal operation, assuming a maximum SWS inlet temperature of 95° F. The analysis determined that with a maximum SWS inlet temperature of 95° F, there will not be an increase in the probability of the sudden failure of equipment cooled by SWS or CCWS, whose failure could cause an accident evaluated in the FSAR, (i.e. loss of reactor coolant flow due to the sudden failure of a RCP, loss of normal feedwater due to the sudden failure of a main feedwater pump, or reactor coolant system failures due to inadequate reactor vessel support cooling). Thus, these changes would not significantly increase the probability of an accident previously evaluated.

With respect to a significant increase in the consequences of an accident previously evaluated, [the safety analysis provided with this submittal] evaluated the adequacy of the cooling provided by the SWS and CCW[S] during off-normal and postulated accident conditions. The analysis determined that adequate cooling is provided to safety-related equipment to support operability following design basis accidents. In addition, adequate cooling is provided to the emergency core cooling and containment cooling systems to mitigate design basis accidents and maintain safety parameters below safety limits. Thus these would not significantly increase the consequences of an accident previously evaluated.

Therefore these proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

Operation of Indian Point Unit 2 with a maximum 95° F Ultimate Heat Sink temperature does not create new equipment failure modes from those already evaluated in the FSAR. The failure of non-safety-related equipment cannot cause an accident not already evaluated. Adequate cooling is provided to safety-related equipment to ensure that they operate as intended. Therefore, no new or different kind of accident is created by increasing the allowable Ultimate Heat Sink temperature to a maximum of 95° F.

(3) Involve a significant reduction in a margin of safety.

[The safety analysis provided with this submittal] determined that adequate cooling is provided to support operation of safety-related equipment during normal operation, abnormal operations, and following design basis accidents. In addition, the [analysis] determined adequate cooling is provided to ensure that safety-related equipment performance is sufficient to maintain safety parameters below safety limits (e.g., containment temperature and pressure will not exceed design limits or an acceptable EQ envelope, post LOCA emergency core cooling functions are supported to ensure long-term core cooling). The [analysis] concluded that all applicable safety limits are met. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Therefore, based on the above discussion [the licensee] has determined that the proposed changes to Technical Specification 3.3F, Technical Specification 4.1–1, Technical Specification 5.2.C and Technical Specification Basis 3.3 with respect to a maximum SWS inlet temperature of 95° F, involve "No Significant Hazards Considerations." * * *

Containment Integrity

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751). Example (i) describes a purely administrative change to technical specifications. Changes to Technical Specification bases 4.4 clarifies the statement regarding containment temperature and pressure and reflects such an example. Example (vi) describes a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria. The changes to the approximate average maximum containment temperature from 120° F to 130° F in Technical Specification Bases 4.4 reflects such an example.

Therefore, in accordance with the requirements of 10 CFR 50.92, the proposed change to Technical Specification Basis 4.4 with respect to an initial containment temperature of 130° F, is deemed to involve "No Significant Hazards Considerations" because operation of Indian Point Unit No. 2 in accordance with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

With respect to a significant increase in the probability of an accident previously evaluated, it should be noted that containment integrity is utilized in accident mitigation and has no effect on initiating an accident. Thus, this change would not significantly increase the probability of an accident previously evaluated.

With respect to a significant increase in the consequences of an accident previously evaluated, the results provided in [the safety analysis provided with this submittal] are based on conservative analyses utilizing new, refined and more accurate methodologies. These analyses show that with increased maximum containment temperature under the worst case LOCA condition, containment pressure will be maintained well below its design value of 47 psig. Thus, the same safety criteria as previously evaluated are still met with the proposed change. Thus, this change would not significantly increase the consequences of an accident previously evaluated.

Therefore, this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to the maximum temperature of containment does not modify the plant's configuration or operation, and therefore the postulated accidents are the only ones that require analysis and resolution. Nothing would be added or removed that would conceivably introduce a new or different kind of accident mechanism or initiating circumstance than that previously evaluated. There[fore], no new or different kind of accident is created by increasing the maximum allowable containment temperature to 130° F.

(3) Involve a significant reduction in a margin of safety.

With the proposed change, all safety criteria previously evaluated are still met, and remain conservative. With the new containment integrity analyses results provided in [the safety analysis provided with the licensee's submittal], it has been established that the IP–2 containment has substantial margins compared to its design pressure following a worst case loss of coolant accident. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Therefore, based on the above discussion [the licensee] has determined that the proposed change to Technical Specification Basis 4.4 with respect to an initial containment temperature of 130° F, involves "No Significant Hazards Considerations."

The staff agrees with the licensee's analysis. Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 223, Phillips Building, 7920 Norfolk Avenue, Bethesda, MD from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene are discussed below.

By August 25, 1989, the licensee may file a request for hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request

and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described below.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of not significant hazards considerations. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If a final determination is that the amendment involves significant hazards considerations, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Capra: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Brent L. Brandenberg, Esq. 4 Irving Place, New York, NY 10003, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petitition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a later petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 13, 1989, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the Local Public Document Room located at White Plains Public Library, 100 Martine Avenue, White Plains, NY 10610.

Dated at Rockville, Maryland, this 21st day of July, 1989.

For the Nuclear Regulatory Commission.

Donald S. Brinkman,

Senior Project Manager, Project Directorate I–1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–17453 Filed 7–25–89; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–275 and 50–323]

Pacific Gas and Electric Co.; Partial Denial of Amendments to Facility Operating Licenses and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) has denied in part a request by the Pacific Gas and Electric Company (the licensee) for amendments to Facility Operating License Nos. DPR–80 and DPR–82, issued to the licensee for operation of the Diablo Canyon Power Plant, Unit Nos. 1 and 2, respectively, located in San Luis Obispo County, California. The Notice of Consideration of issuance of Amendments was published in the **Federal Register** on May 3, 1989 at 54 FR 18950.

The amendments, as proposed by the licensee, would change Section 6.0, "Administrative Controls," of the Technical Specifications regarding the General Office Nuclear Plant Review and Audit Committee (GONPRAC) membership, operating personnel working hours and limits, the plant staff qualifications and training program, and routine and special reports. The Commission's staff finds acceptable the changes that are applicable to the GONPRAC, and to routine and special reports. The other proposed changes are unacceptable, because they do not conform to the Commission's requirements and guidance for such

matters. Therefore, the request for amendments is denied in part.

By August 25, 1989, the licensee may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rules and Procedures Branch, Office of Administration, or may be delivered to the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, CA 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, CA 94120, attorneys for the licensee.

For further details with respect to this action, see (1) the application for amendments dated March 20, 1989, as supplemented by letter dated June 29, 1989, (2) Amendments Nos. 43 and 42 to License Nos. DPR–80 and DPR–82, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, CA 93407. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland, this 19th day of July 1989.

For the Nuclear Regulatory Commission.

Harry Rood,

Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–17452 Filed 7–25–89; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

National Advisory Committee on Semiconductors (NACS)

The purpose of the National Advisory Committee on Semiconductors, is to devise and promulgate a national semiconductor strategy, including research and development. The implementation of this strategy will assure the continued leadership of the United Staets in semiconductor technology. The Committee will meet on August 3, 1989 at Science Applications International Corporation, 1555 Wilson Blvd., 7th Floor, Rosslyn, Virginia 8:00 a.m. The proposed agenda is:

(1) Briefing of the Committee on its organization and administration.

(2) Briefing of the Committee by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed studies regarding semiconductors.

(3) Discussion of composition of panels to conduct studies

A portion of the August 3 session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b.(c) (1), (2), and (9)(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personel nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552 b.(c)(6).

Because of the security in the New Executive Office Building, persons wishing to attend the open portion of the meeting should contact Hazel Houston, at (703) 556–7130, prior to 3:00 p.m. on August 2, 1989. Mrs. Houston is also available to provide specific information regarding time, place and agenda for the open sesion.

Barbara J. Diering,

Special Assistant, Office of Science and Technology Policy.

July 24, 1989.

[FR Doc. 89–17607 Filed 7–24–89; 3:30 pm]

BILLING CODE 3170–01–M

SECURITIES AND EXCHANGE COMMISSION

[34–27045NSCC–89–09]

Self-Regulatory Organizations; National Securities Clearing Corp.; Proposed Rule Change

July 19, 1989.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 10, 1989 NSCC filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify NSCC's Rules and Procedures as described below.

II. Self-Regulatory Organization's Statement of the Purposed of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purposes of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purposed of, and Statutory Basis for, the Proposed Rule Change

(a) The purpose of the proposed rule filing is to make certain technical clarifications to the Mutual Fund Settlement, Entry and Registration Verification Service ("Fund/SERV Service") rule in order to accurately reflect the way in which exchanges are handled and have been handled since Fund/SERV was initiated. The rule is being modified to reflect that certain system capabilities applicable to purchases and redemptions are not applicable for exchanges. Exchanges give the mutual fund owner the ability to switch from one fund to a different mutual fund investment within the same family of funds without incurring an additional within the same family of funds without incurring an additional

charge and without the necessity of passing money. Exchanges "settle" through Fund/SERV two days following input of the order based on confirmation submitted by the Mutual Fund Processor or Fund Member. Settlement means confirmation by the fund to the party that the exchange has occurred. Purchase and redemption orders processed through Fund/SERV are deleted from the system if unconfirmed or rejected. Failure to respond to exchange input results, however, in the exchange data being continually carried forward. In addition, reconfirmation, correction and deletion procedures which are available for purchases and redemptions are not available for exchanges. This is due to the fact that exchanges settle within NSCC the day after confirmation, thus eliminating time which is needed to process corrections. Commencing August 25, 1989, NSCC will no longer accept for processing through Fund/SERV exchanges where the mutual shares are held in physical form. Due to the short settlement period, there is insufficient time to complete the work involved in the cancellation of physical shares involved in an exchange. Such transactions have not been able to be processed through Fund/SERV since its initiation because the funds themselves would not accept the physical shares. The filing is correcting the language in the rule as necessary to conform the rule to the existing practice.

(b) The proposed rule change facilitates the prompt and accurate clearance and settlement of securities transactions and is therefore, consistent with the requirements of the 1934 Act, as amended, and the rules and regulations thereunder applicable to NSCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change that are filed with Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld for the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR–NSCC–89–09 and should be submitted by August 16, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–174887 Filed 7–25–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27047; File No. SR–NYSE–88–34]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Intermarket Trading Restrictions

On November 1, 1988, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or Commission"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] abd Rule 19b–4 thereunder,[2] a proposed rule change consisting of two agreements in regard to certain intermarket trading restrictions between the NYSE and the Chicago Mercantile Exchange ("CME") and between the NYSE and the New York Futures Exchange ("NYFE").

The proposed rule change was noticed in Securities Exchange Act Release No. 26279 (November 14, 1988), 53 FR 46731 (November 18, 1988). The Commission received four comment letters on the proposal and a response by the NYSE to the comments. *See* discussion at pages five through nine, *infra*.

I. Description of the Proposal

The NYSE and the CME and the NYSE and the NYFE have adopted a policy, uniform as between the respective markets, that specifically defines and prohibits certain intermarket trading between their respective equities and futures markets, while not prohibiting legitimate trading activities.[3] The policy is contained in two Information Memoranda that will be distributed to NYSE members and member organizations upon Commission approval of this proposed rule change. The joint NYSE, CME, and NYFE policy prohibits a member or person associated with a member or member organization from engaging in intermarket frontrunning involving securities and stock index futures or options on stock index futures. The policy states that a member or person executing or causing the execution of, for an account in which such member or person has a direct or indirect pecuniary interest, or for an account with respect to which such member or person exercises investment discretion, certain intermarket transactions, as described below, to take advantage of material, non-public information, that reasonably can be expected to have an immediate, favorable impact in relation to such transactions, may be in violation of just and equitable principles of trade under NYSE Rule 476.[4]

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[1] 15 U.S.C. 78s(b) (1982).

[2] 17 CFR 240.19b–4 (1988).

[3] The policy pertains to intermarket trading involving any stock index futures contract and the NYSE equities market, regardless of whether the future is traded on the CME, the NYFE, or another futures exchange. The NYSE's policies with regard to frontrunning in the context of trading in standardized options on individual stocks, index options, and options on over-the-counter stocks were most recently restated in SR–NYSE–87–36 (*See* Securities Exchange Act Release No. 25233 (December 30, 1987), 53 FR 296). Those policies are unaffected by this proposal.

[4] NYSE Rule 476 (Disciplinary Proceedings Involving Charges Against Members, Member Organizations, Allied Members, Approved Persons, or Employees) provides: * * * if a member, member organization, allied member, approved

Continued

The policy provides specifically that a transaction in any stock index futures contract, or in an option on a stock index future, when such member or person has acquired knowledge of the imminent execution of another person's stock program transaction, may be in violation of just and equitable principles of trade. Moreover, because transactions in stock index futures or options on a stock index future may have some effect on the market in the underlying equities themselves, the policy states that, conversely, certain transactions in the reverse order also could constitute a violation of just and equitable principles of trade. In particular, stock program transactions, when such member or person has acquired knowledge of the imminent execution of another person's order(s) in stock index futures contracts or options on stock index futures, may also be in violation of just and equitable principles of trade.

Under the NYSE's policy, it is not necessary to demonstrate that either the firm's customer or any other person has been disadvantaged to conclude that the trading violated just and equitable principles of trade. Furthermore, such member or person may be deemed to be in violation of the NYSE's policy regardless of whether the customer generating the program order has given permission for such trading.

The policy states that it is not intended to prevent a member or person from establishing, in a futures market, a bona fide hedge position to reduce risk exposure such member or person may have assumed or agreed to assume in facilitating the execution of any other person's stock program orders. The risk to be hedged must be the result of having established a position or having given a firm commitment to assume a position, and the offsetting hedging transaction must be commensurate with such risk.

In addition, the policy states that it is not intended to prevent a member or person from implementing a legitimate proprietary market strategy involving a stock program and a related stock index futures transaction by executing the stock index futures trade(s) prior to the execution of the stock program. The policy states, however, that the execution of a transaction in one market to take advantage of such member's or person's imminent transaction in a related market may be considered manipulative activity.

The agreement between the NYSE and the NYFE is identical to the agreement between the NYSE and the CME, with one additional restriction. The agreement between the NYSE and the NYFE further states that a transaction in any stock index option, when such member or person has acquired knowledge of the imminent execution of another person's order(s) in stock index futures contracts or options on a stock index future, may also be in violation of just and equitable principles of trade. The NYSE–NYFE agreement states further that the policy is not intended to prevent such member or person from establishing, in a futures market, a bona fide hedge position to reduce risk exposure such members or persons may have assumed or agreed to assume in facilitating the execution of any other person's stock index option orders as well as another person's stock program orders. In addition, the NYSE–NYFE agreement states that a member or person associated with a member organization who implements a proprietary market strategy involving stock index option transaction(s) as well as a stock program and a related stock index futures transaction by executing the stock index futures trade(s) prior to the execution of the stock index option transaction(s) as well as the stock program will not be deemed to be in violation of the policy. The NYSE–NYFE agreement states, however, that the execution of a transaction in one market to take advantage of such member's or person's imminent transaction in a related market may be considered manipulative activity.

II. Comments on the Proposed Rule Change

The Commission received comment letters on the proposal from the American Bar Association, Section of Corporation, Banking and Business Law, Committee on Federal Regulation of Securities ("ABA");[5] the Securities Industry Association Federal Regulation Committee ("SIA");[6] Gerald Beirne, a registered representative;[7] and Timber Hill Incorporated.[8] These comments are summarized below.[9] The NYSE submitted a set of 12 Questions and Answers Regarding Intermarket Trading Restrictions ("Qs&As") that, among other things, respond to questions on its proposal raised in several of the comment letters.[10] The Qs&As will be distributed to the NYSE membership as an attachment to the Information Memoranda contained the NYSE-CME-NYFE intermarket trading restrictions policy.

The comment letters all generally support the NYSE's effort to establish a policy with the CME and the NYFE prohibiting intermarket frontrunning. The commentators, in different respects, criticize the coverage of the policy as being either too broad or too narrow.

The ABA and SIA agree with the part of the proposed policy that states that a member may implement a proprietary trading strategy in different markets in whatever sequence it sees fit. The ABA and the SIA disagree, however, with that part of the policy that states that a member who executes a transaction in one market to take advantage of such member's imminent transaction in a related market may be engaging in manipulative activity. The ABA and the SIA stated that this qualification to the policy's permission for a member to engage in proprietary transactions in a sequence of its own choosing is ill-defined, overly-broad, and unjustified, and that any activity covered by this qualification should be limited to violations of Sections 9 and 10(b) of the Act.

The ABA and the SIA also stated that the proposed policy does not appear to attribute to any employee of a member executing a stock index futures

person, or registered or non-registered employee of a member or member organization is adjudged guilty in a proceeding under this Rule of * * * conduct or proceeding inconsistent with just and equitable principles of trade * * * then, * * * the Hearing Panel shall, in accordance with the procedures set forth in this Rule, impose one or more * * * disciplinary sanctions * * *[as enumerated].

[5] *See* letter from James H. Cheek III, Chairman, Committee on Federal Regulation of Securities, American Bar Association, to Jonathan G. Katz, Secretary, Commission, dated December 8, 1988.

[6] *See* letter from Dennis H. Greenwald, Chairman, Federal Regulation Committee, Securities Industry Association, to Jonathan G. Katz, Secretary, Commission, dated December 29, 1988.

[7] *See* letter from Gerald Beirne to Secretary, Commission, dated December 6, 1988 ("Beirne").

[8] *See* letter from Thomas Peterffy, President, Timber Hill Incorporated, to Jonathan G. Katz, Secretary, Commission, dated December 22, 1988 ("Timber Hill").

[9] On April 13, 1988, prior to filing the proposed rule change with the Commission, the NYSE issued an Information Memorandum to its membership stating that it was considering the adoption of an interpretation whereby trading in index futures immediately prior to and with knowledge of the execution of one or more "baskets" of stock that favorably impact the value of the underlying index might constitute frontrunning. The NYSE invited comments form its membership concerning the proposed interpretation. The NYSE received comment letters from Merrill Lynch, Pierce, Fenner and Smith, Inc.; Morgan Stanley & Co.; and the Securities Industry Association. These comments, and the Exchange's response to them, were discussed in the notice of the proposed rule change published in the Federal Register.

[10] *See* letter from Robert J. McSweeney, Vice President, Market Surveillance, NYSE, to Brandon Becker, Associate Director, Division of Market Regulation, dated June 27, 1989 ("NYSE June 27 letter").

transaction the knowledge of another of the member's employee's imminent execution of a stock program transaction. The ABA and SIA urged, however, that this point be clarified.

Further, the ABA and the SIA stated that the NYSE should define "bona fide hedge" and that the policy should state that the hedge does not have to be established on a one-to-one basis between the value of the stock program and the futures transaction.

The ABA, by itself, also commented on the policy's "admonition" that it is not necessary for the NYSE to demonstrate that another person was disadvantaged by a particular instance of frontrunning. The ABA states that it assumes that it still would be a defense for the respondent in such an action to show that no violation has taken place because no one has been disadvantaged.[11]

In contrast to the ABA and SIA, Beirne stated that the NYSE's proposed policy is too narrow, and should be broadened to include language that clearly defines and prohibits self-frontrunning. Beirne contends in his letter that the extraordinary volatility that has existed in the markets since the inception of index futures trading is, for the most part, directly attributable to self-frontrunning.

Finally, Timber Hill generally supported the NYSE's proposal, but recommended that the transactions included within the policy should include the exercise of cash-settled options.

In its June 27 letter and accompanying Qs&As, the NYSE responded to the above comments regarding the proposed rule change. First, in Q&A 9, the NYSE reiterated its view that the proposed policy does not prescribe the sequence of a member's legitimate proprietary trading strategies involving a stock program and a related stock index futures transaction. In response to the ABA, SIA, and Beirne comments concerning self-frontrunning, however, the NYSE clarified the circumstances under which such a member might be found to have been enagaging in manipulative activity. In particular, Q&A 9 states that a member who executes a proprietary transaction in one market may be engaging in manipulative activity if that transaction favorably impacts such member's subsequent proprietary transaction in a related market. In Q&A 9, the NYSE asserts that such conduct need not be a violation of federal securities law is order to be actionable.[12] Indeed, Q&A 9 states that manipulative conduct is actionable if it is violative of Exchange rules and policies. The NYSE did not adopt the ABA and SIA's request that manipulative activity should be limited to violations of Sections 9 and 10(b) of the Act.[13]

Second, in Q&A 10, in response to the ABA and SIA comments, the NYSE makes clear that if a member or an employee of a member has knowledge of the execution of another person's imminent stock program or stock index futures transaction, this will preclude any other person within the same member from effecting any transaction in a related market prior to the execution of the imminent transaction unless such other person does not, in fact, have knowledge of the imminent transaction. The NYSE states that a determination of whether such other employee, in fact, had knowledge of the imminent transaction may be based upon circumstantial evidence regarding the timing of the firm's transactions in the stock and futures markets and the access of the firm's traders to the information regarding the imminent transaction.

Third, in Q&A 8, the NYSE repeated its view that a member, in facilitating the execution of another person's stock program, may establish an index futures position prior to the stock program transaction, provided that such index futures position is a bona fide hedge of risk. The policy itself responds to the ABA and SIA comments where it states that, in order to be a bona fide hedge, the risk to be hedged must be the result of having established a position or having given a firm commitment to assume a position, and the offsetting hedging transaction must be commensurate with such risk. The policy does not contain any requirement that the hedge be precisely a one-to-one ratio.

Finally, in Q&A 6, the NYSE reiterates that, in determining whether a member has taken advantage of material, non-public information regarding a stock program or a stock index futures options transaction, it is not necessary for the Exchange to demonstrate that another person has been disadvantaged. The NYSE has not adopted the ABA's argument that it would be a defense for a respondent in an action for an alleged violation of the NYSE's policy to show that no violation has taken place because no one has been disadvantaged.

[11] The ABA also criticizes the framework within which prior frontrunning interpretations have been issued by the self-regulatory organizations ("SRSs").

[12] *I.e.*, §§ 9 and 10(b) of the Act, 15 U.S.C. 78i and 78j(b) (1982) and Rule 10b-5, 17 CFR 240.19b-4 (1988).

[13] *I.e.*, NYSE Rule 476.

III. Discussion

The Commission has reviewed closely the proposed NYSE rule change, the comments received by the Commission and the Exchange regarding the proposal, and the NYSE's response to these comments. On the basis of this review, the Commission has concluded that the proposed NYSE rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder,[14] and, accordingly, should be approved.

The securities SROs view frontrunning as conduct inconsistent with just and equitable principles of trade.[15] The SROs have issued circulars to this effect and have implemented programs to detect and prosecute frontrunning in the securities markets. In October 1987, these frontrunning circulars were filed with the Commission as rule changes pursuant to section 19(b)(3)(A) of the Act as stated policies of the SROs.[16] The circulars address frontrunning that occurs within a single market or that involves transactions in both the stock and options markets.

It has become evident over the last few years that opportunities now exist for similar trading practices involving trades with stock index futures contracts and the securities markets.[17] The Commission has encouraged the securities markets and the futures markets to work together to develop procedures to detect and prosecute intermarket frontrunning. A result of this regulatory cooperation and coordination was the NYSE proposal discussed herein: a uniform policy adopted by the NYSE, the CME, and the NYFE that defines and prohibits intermarket frontrunning.

The Commission believes that the adoption of this uniform policy, in conjunction with the increased sharing of information and regulatory coordination resulting from the development of this policy, should result in more effective detection and

[14] 15 U.S.C. 78f (1982).

[15] In its broadest terms, frontrunning generally is defined as trading on the basis of non-public market information regarding imminent, material market transactions.

[16] *See* Securities Exchange Act Release No. 25233 (December 30, 1987), 53 FR 296.

[17] *See* The October Market Break, A Report by the Division of Market Regulation, Securities and Exchange Commission (February 1988), at 3-30-3-33; An Overview of Program Trading and Its Impact on Current Market Practices, Nicholas deB. Katzenbach (December 21, 1987), at 23-24, 31-32.

prosecution of intermarket frontrunning violations. The NYSE-CME-NYFE joint policy is an extension of the NYSE's current frontrunning policy, described above. The joint policy, as clarified by the NYSE's Qs&As, adequately addresses the concerns raised by the commentators. In particular, the joint policy and the Qs&As clearly describe prohibited intermarket practices while still allowing members to engage in proprietary trading strategies in the futures and equities markets or to assist customers in the execution of stock programs or stock index futures orders. The scenarios that Bierne raises in his comment letter are of serious concern to the Commission. While the widespread existence of such abuses is not as evident or as certain as Mr. Bierne's letter suggests, the possibility of such practices warrants vigorous regulatory oversight by the stock, options, and futures markets. The cooperative efforts by the NYSE, CME, and NYFE in drafting the policy represent a sound step in this direction. In this regard, the joint policy, while allowing a member to implement proprietary trading strategies in different markets in whatever sequence he chooses, clearly states that a member may be engaging in manipulative conduct when a proprietary transaction in one market favorably impacts the member's subsequent transaction in a related market.[18] While the Commission believes that the policy sets forth an appropriate approach to address improper proprietary trading, we emphasize the importance of vigorous intermarket surveillance to detect any such activities. Should these efforts prove inadequate, then the SROs at a later date may have to revisit the adequacy of the policy.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Jonathan G. Katz,

Secretary.

Dated: July 19, 1989.

[FR Doc. 89-17489 Filed 7-25-89; 8:45 am]

BILLING CODE 8010-01-M

[18] In addition, in regard to the concern raised in Timber Hill's letter, the NYSE's current frontrunning circulars address practices arising from exercises of cash-settled options. In addition, under the NYSE-NYFE agreement, if a member's exercise of cash-settled options is part of a manipulative scheme, the member could be found in violation of NYSE Rule 476.

[19] 17 CFR 200.30-3(a)(12) (1988).

[34-27046 PTC-89-2]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Participants Trust Co.

In the matter of Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Participants Trust Company, Relating to the deletion from Article II, Rule 13, Section 6 of the Participants Trust Company Rules of the provision permitting a Receiving Participant, acting in an agency capacity, to reverse a delivery because its customer may not pay for securities delivered.

July 19, 1989.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 USC 78s(b)(1), notice is hereby given that on July 11, 1989, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by PTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change deletes the provisions of Article II, Rule 13, Section 6 whereby a Receiving Participant acting in an agency capacity may reverse a transfer to it if it determines in good faith that its principal may be unable to fulfill all of its obligations to the Receiving Participant.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries set forth in Sections (A), (B) and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to enhance the finality of the PTC settlement system. In developing and refining the rules of PTC over the period preceding the acquisition by PTC of the business and assets, including the rules, of the Depository Division of MBS Clearing Corporation, finality was a concern of the industry and the Federal Reserve System (the "FRS"). The approval by the FRS of the application of PTC for membership in the FRS includes the commitment of PTC to delete this provision from its rules. This rule change is therefore proposed in order to satisfy the commitment of PTC to the FRS and to improve the finality of the PTC settlement system.

2. Statutory Basis

The basis under the Act for this proposed rule change is to design the rules to promote the objective of section 17A(b)(3)(F) of the Act to provide "the prompt and accurate clearance and settlement of securities transactions." The provision to be deleted may cause uncertainty, delay and confusion in the settlement of transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PTC does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

You are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies

thereof with the Secretary Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 USC 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at PTC's principal office. All submission should refer to file number SR–PTC–89–2 and should be submitted by August 16, 1989.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–17490 Filed 7–25–89; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 05/07–0003]

Capital Investments, Inc.; Filing of Application for Transfer of Ownership and Control

Notice is given that an Application has been filed with the Small Business Administration (SBA) pursuant to the Regulations governing small business investment companies (13 CFR 107.601 (1989)) for Transfer of Control of Capital Investments, Inc. (Licensee), 744 North Fourth Street, Milwaukee, WI 53203, a small business investment company (SBIC) and a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*).

The Licensee is a Wisconsin corporation. Messrs. James D. Dobson, Virgil Duane Rath, and James R. Sanger collectively own 15.67 percent of the total outstanding shares of the Licensee. They propose to collectively acquire 51 percent of the Licensee's outstanding shares. As such, this proposed acquisition constitutes a change in control of the Licensee.

The Proposed Officer and Directors and shareholdings will be as follows:

Name	Title or position	Percent of ownership
Frank W. Norris, 2427 N. Harding Blvd., Wauwatosa, WI 53226.	President and Manager.	.....
Robert L. Banner, 1521 Upper Parkway SO, Wauwatosa, WI 53213.	Vice President.	.....
Steven C. Rippl, 6408 W. Division St., Mequon, WI 53092.	Secretary-Treasurer.	.....
James D. Dobson, 3140 Box Canyon Rd., Santa Ynez, CA 93460.	Director	(1) 17
V. Duane Rath, 2505 Foster Ave., Janesville, WI 53545.	Director	(1) 17
James R. Sanger, 2505 Foster Ave., Janesville, WI 53545.	Director	(1) 17
William J. Nasgovitz, 4470 N. Lake Dr., Shorewood, WI 53211.	Director	5
Roger G. Dirksen, 926 East Circle Dr., Whitefish Bay, WI 53217.	Director	5
Frank J. Pelisek, 250 E. Wisconsin Ave., Milwaukee, WI 53202.	Director	.....

[1] Fifty-one percent collective ownership of Messrs. Dobson, Rath and Sanger

The Licensee will retain its present name and location. Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the existing company under their management including probability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of the Notice shall be published in a newspaper of general circulation in Milwaukee, Wisconsin.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: July 20, 1989.

[FR Doc. 89–17430 Filed 7–25–89; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[File No. AC 21.17–2]

Advisory Circular; Type Certification—Fixed-Wing Gliders (Sailplanes), Including Self-Launching (Powered) Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notce of availability of AC–21.17–2. Type Certification—Fixed-Wing Gliders (Sailplanes). Including Self-Launching (Powered) Glilders.

SUMMARY: Advisory Circular 21.17–2, which was issued on July 13, 1989, describes three acceptable criteria, but not the only criteria, for the type certification of fixed-wing gliders (sailplanes), including self-launching (powered) gliders, that may be used by an applicant in showing compliance with the type certification requirements of the Federal Aviation Regulations.

FOR FURTHER INFORMATION CONTACT: Mr. Lyle C. Davis, Aerospace Engineer, Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, Policy and Procedures Branch, AIR–100, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–9583.

SUPPLEMENTARY INFORMATION:

Background

Part 21 of the Federal Aviation Regulations (FAR) was amended effective April 13, 1989, to provide procedures for the type certification and airworthiness certification of special classes of aircraft. Special classes of aircraft include gliders (including self-launching gliders), airships, and other kinds of aircraft that would be eligible for a standard airworthiness certificate but for which no airworthiness standards have as yet been established as a separate part of Chapter 1, Subchapter C of CFR 14. Airworthiness standards for these special classes of aircraft are designated in new § 21.17(b). Section 21.23 was removed, and the glider type certification requirements incorporated into § 21.17(b). Since the essence of AC 21.23–1 is now included in AC 21.17–2, AC 21.23–1 is cancelled.

Advisory Circular 21.17–2 was published on January 9, 1989 (54 FR 725) to obtain public comments. The closing date for comments was February 8, 1989. Due to requests from potentially affected aircraft manufacturers and national homebuilt aircraft organizations, a notice was published on

February 23, 1989 (54 FR 7909) to extend the comment period for an additional 45 days. Following the close of the comment period on April 10, 1989, all comments were evaluated and pertinent comments were incorporated in AC 21.17-2.

Related FAR

Applicants for approval of glider design criteria should also be aware of the provisions contained in the following related FAR:

Section 21.5—Airplane or Rotorcraft Flight Manual.

Section 21.17—Desgnation of applicable regulations.

Part 23—Airworthiness Standards: Normal, Utility, and Acrobatic Category Airplanes.

Part 33—Airworthiness Standards: Aircraft Engines.

Part 35—Airworthiness Standards: Propellers.

Part 45, Subpart C—Nationality and Registration Marks.

Section 91.31—Civil aircraft flight manual, marking and placard requirements.

Section 91.33—Powered civil aircraft with standard category U.S. airworthiness certificates; instrument and equipment requirements.

How to Obtain Copies

Copies of AC 21.17-2, Type Certification—Fixed-Wing Gliders (Sailplanes), Including Self-Launching (Powder) Gliders, may be obtained from the U.S. Department of Transportation, Utilization and Storage Section, M-443.2, Room 2314, Nassif Building, Washington, DC 20590.

Issued in Washington, DC, on July 13, 1989.

William J. Sullivan,

Assistant Director, Aircraft Certification Service.

[FR Doc. 89-17468 Filed 7-25-89; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

[CGD89-057]

Pilotage Study

AGENCY: Coast Guard, DOT.

ACTION: Notice of study and request for comments.

SUMMARY: This Notice announces a Coast Guard study of issues relating to pilotage requirements and invites public comment. The study will consider whether to recommend any changes to existing laws and regulations. It is anticipated that the study will be concluded by October 1989. The Coast Guard will publish a notice of study completion in the **Federal Register** and will make the final report available to the public for comment.

DATE: Comments must be received by 21 August 1989.

ADDRESS: Comments should be mailed or delivered to Commandant (G-MVP), room 1210, 2100 Second St., SW., Washington, DC 20593-0001. They should be marked "Pilotage Study." Comments received will be available for examination or copying at this address between the hours of 8:00 a.m. to 3:30 p.m., Monday through Friday, except for holidays.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke (202) 267-0217.

SUPPLEMENTARY INFORMATION: The Commandant, USCG, has appointed a study group to examine a number of issues relating to pilotage requirements. The study group is headed by RADM Richard A. Bauman, who has been recalled to active duty for the period of the study. The study group is gathering information from all segments of the maritime industry interested in pilotage requirements. The Coast Guard welcomes comments from shipowners and charterers, State pilots, Federal pilots, ship's officers who serve as pilots, their associations, and other people or organizations affected by the requirements and performance of ship's pilots. The study group is examining existing laws and regulations and will consider whether to recommend any changes to laws or regulations.

Since the Department of Transportation recently completed a comprehensive study of Great Lakes pilotage, the study group does not intend to include those waters in its present study. The results of that study are contained in "Great Lakes Pilotage Study, Final Report", dated December 7, 1988.

The issues the study group is examining include:

1. Pilotage requirements, based on qualifications of the licensed personnel, the nature of the voyage, type of cargo, or other basis.
2. The extent of pilotage waters, Federal and State.
3. Variations in requirements due to vessel size, route, cargo, or other factors.
4. Requirments for pilot licenses: experience, testing, and recency of service.
5. Requirements for recertification, including familiarization.
6. The pilot's responsibility aboard the vessel.
7. The proper roles for Federal and State Governments.
8. Navigation equipment and operational requirements for ships operating in the approaches to pilot waters.

Request for Comments

The study group is interested in receiving information and comments from parties who are experienced in any aspect of pilotage. Due to the short time available, and the large number of issues to be examined, the panel does not intend to hold public meetings. To ensure full consideration, comments should be submitted by 21 August 1989. Late comments will be considered to the extent possible without delaying submission of the study group's report. Comments which have been submitted in response to earlier dockets relating to pilotage, CGD-77-084 and CGD-84-060, will receive full consideration; they do not have to be resubmitted.

It is anticipated that the study will be concluded by October 1989. Since the study report may include recommended changes to existing laws or regulations, the Coast Guard will publish a notice of its completion in the **Federal Register**. The final report will be available to the public for comment.

Dated: July 21, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-17498 Filed 7-25-89; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Research, Engineering, and Development Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Federal Aviation Administration Research, Engineering, and Development Advisory Committee to be held Tuesday, August 29, 1989, at 2:00 p.m., and Wednesday, August 30, 1989, at 9:00 a.m. Both sessions will take place in the MacCracken Room, 10th floor, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC.

The agenda for this meeting is as follows:

(1) Subcommittee reports

(2) Draft 1990 R,E&D Plan

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or

obtain information should contact Mr. John Turner, Executive Director, Research, Engineering, and Development Advisory Committee, ADM–1, 800 Independence Avenue, SW, Washington, DC 20591, telephone 202–267–3555.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on July 14, 1989.

John Turner,

Executive Director, Research, Engineering, and Development Advisory Committee.

[FR Doc. 89–17474 Filed 7–25–89; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition

This notice sets forth the reasons for the denial of a petition submitted to the National Highway Traffic Safety Administration (NHTSA) under section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1831 *et seq.*).

Mr. Dominick Moscato, on behalf of the New York City Transit Authority, submitted a petition dated March 10, 1989, requesting NHTSA to investigate an alleged fire potential in the Transign electronic route signs installed on the rear of transit busses. The sign is manufactured by Vultron Incorporated, Auburn Heights, Michigan. Mr. Moscato stated that he had identified two potential defects as being fire hazards. They are: (1) Corrosion and/or total disintegration of a nine-wire cable connector and (2) corrosion and/or total disintegration of the lamp socket assemblies. The petitioner did not report any occurrence of fire.

NHTSA reviewed its files and discovered no other complaints relating to the subject signs. The manufacturer's response to NHTSA's inquiry stated that it had received no other complaints of the alleged fire potential from the other users of the equipment. A NHTSA survey of the other users listed by the manufacturer revealed no complaints of corrosion or of fires associated with the product.

In the absence of similar problems being experienced by other users of the signs, and in consideration of the available information, it was concluded that there was not a reasonable possibility that an order concerning the notification and remedy of a safety-related defect in relation to the alleged fire potential would be issued at the conclusion of an investigation. Since no evidence of a safety-related defect trend was discovered, further commitment of resources to determine whether such a trend may exist does not appear to be warranted. Therefore, the petition is denied.

Authority: Sec. 124, Pub. L. 93–492; 88 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: July 20, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89–17418 Filed 7–25–89; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 89–67]

Approval of Bureau Veritas Holdings, Inc., as a Commercial Gauger

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of approval of Bureau Veritas Holdings, Inc. as a commercial gauger.

SUMMARY: Bureau Veritas Holdings, Incorporated of New York, New York, 10002, recently applied to Customs for approval to gauge and sample imported petroleum, petroleum products, organic chemicals, and vegetable and animal oils under § 151.13 of the Customs Regulations (19 CFR 151.13). Customs has determined that Bureau Veritas Holdings, Inc. meets the requirements for approval.

Therefore, in accordance with § 151.13(c), Bureau Veritas Holdings, Incorporated, 1250 Broadway, New York, New York, 10002, is approved to gauge the products named above in all Customs districts.

EFFECTIVE DATE: July 20, 1989.

FOR FURTHER INFORMATION CONTACT: Donald A. Cousins, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202–566–2446).

Dated: July 20, 1989.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 89–17402 Filed 7–25–89; 8:45 am]

BILLING CODE 4820–02–M

Office of the Secretary

[Department Circular—Public Debt Series—No. 20–89]

Treasury Notes of June 30, 1991, Series AC–1991

Washington, July 20, 1989.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31, of Title 31, United States Code, invites tenders for approximately $9,000,000,000 of United States securities, designated Treasury Notes of July 31, 1991, Series AC–1991 (CUSIP No. 912827 XU 1), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. The notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, in exchange for maturing Treasury securities.

2. Description of Securities

2.1. The Notes will be dated July 31, 1989, and will accrue interest from that date, payable on a semiannual basis on January 31, 1990, and each subsequent 6 months on July 31 and January 31 through the date that the principal becomes payable. They will mature July 31, 1991, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They

will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, July 26, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, July 25, 1989, and received no later than Monday, July 31, 1989.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5 must be made or completed on or before Monday, July 31, 1989. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, July 27, 1989. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, July 31, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in

TREASUTY DIRECT must be completed to show all the information required thereon, or the TREASUTY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 89-17507 Filed 7-21-89; 8:45 am]

BILLING CODE 4810-40-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (203C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 25, 1989.

Dated: July 14, 1989.

By direction of the Secretary.

Frank E. Lalley,

Director, Office of Information Management and Statistics.

Revision

1. Veterans Benefits Administration
2. Matured Endowment Notification
3. VA Form 29-5767
4. This form is being revised to include the respondent burden information and information concerning the toll-free telephone service.
5. On occasion
6. Individuals or households
7. 8,600 responses.
8. 1/3 hour
9. Not applicable

[FR Doc. 89-17479 Filed 7-25-89; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, VA Clearance Officer (732), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 25, 1989.

Dated: July 14, 1989.

By direction of the Secretary.

Frank E. Lalley,

Director, Office of Information Management and Statistics.

New Collection

1. Office of Budget and Finance (Controller)
2. Collection of Government Funds Via Credit Cards
3. VA Form 4-5579
4. Use of this form will allow credit cards to be used to collect funds due the Government. Information collected is needed to properly record collection of the payment and to assess liability to the debtor's credit card account.
5. On occasion
6. Individuals or households
7. 10,000 responses
8. 1/60 hour
9. Not applicable

[FR Doc. 89-17480 Filed 7-25-89; 8:45 am]

BILLING CODE 8320-01-M

Evaluations by the Department of Veterans Affairs of Scientific Studies Related to the Effects of Exposure to Ionizing Radiation

AGENCY: Department of Veterans Affairs.

ACTION: Notice of evaluations.

SUMMARY: The "Veterans' Dioxin and Radiation Exposure Compensation Standards Act" (Pub. L. 98-542), and implementing regulations, 38 CFR 1.17, require the Department of Veterans Affairs (VA) to publish from time to time evaluations of scientific or medical studies relating to the adverse health effects of exposure to ionizing radiation. This notice is concerned with the following scientific studies reviewed in November 1986 by the Scientific Council

of the Veterans Advisory Committee on Environmental Hazards, an advisory committeee established pursuant to Pub. L. 98–542.

FOR FURTHER INFORMATION CONTACT: Roger H. Shannon, M.D., F.A.C.R., Director, Radiology Service (114), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–2434.

SUPPLEMENTARY INFORMATION: In reviewing each of these studies, the following factors were considered:

(a) Whether the study's findings are statistically significant and replicable,

(b) Whether the study and its findings have withstood peer review,

(c) Whether the study's methodology has been sufficiently described to permit replication,

(d) Whether the findings of the study are applicable to the veteran population of interest, and

(e) The views of the Veterans Advisory Committee on Environmental Hazards. (The views of the advisory committee are contained in the minutes of these meetings. Copies of the minutes may be obtained from Frederic Conway, Special Assistant to the General Counsel (02C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–2182.

Studies Reviewed

a. Bross and Bross, "Do Atomic Veterans Have Excess Cancer? Conclusive New Evidence on Radiation Hazards" (unpublished paper dated September 5, 1985).

b. Bross, "Additional Information on the Risks of the Servicemen Exposed to Fallout From Atmospheric Nuclear Weapons Tests" (unpublished paper dated September 12, 1986).

Dated: July 21, 1989.

Edward J. Derwinski,

Secretary.

Evaluations

In the first paper, the authors analyzed data reported in a paper by the National Academy of Sciences (NAS) entitled, "Mortality of Nuclear Weapons Test Participants." The NAS paper concluded that there was no consistent or statistically significant evidence for an increase in leukemia or other malignant disease in nuclear test participants. The authors contended that the NAS erroneously compared the mortality rates for the atomic weapons test participants with the rates of death in the white male general population. They argued that if a correction were made for the selection bias in the use of Standardized Mortality Ratios, a statistically significant excess in deaths due to leukemia and other malignant diseases emerges. One method of correction they proposed was to employ a Corrected Mortality Ratio. The basis for the adjustment that the authors selected was the Standardized Mortality Ratio for cardiovascular disease. When this Corrected Mortality Ratio is applied, the authors contended, a large number of excess deaths from cancer and other causes emerges, particularly for digestive, respiratory, and genital cancers and also for leukemia.

Focusing on the PLUMBBOB shot of the atomic weapons tests, the authors attempted a dose-response analysis. They concluded that at exposures of 300 millirem or less, there was little sign of excess deaths from solid cancers. At doses higher than 300 millirem, all sites of cancer showed statistically significant excess deaths.

In the second paper, the use of 300 millirem exposure as the cutoff for comparison was further discussed. The author again argued that utilizing this approach revealed an excess of cancers among those veterans in the PLUMBBOB series who had exposures greater than 300 millirem.

The Veterans Advisory Committee on Environmental Hazards had several comments on these papers. First, the Committee believed that the authors failed to recognize that the "healthy veteran effect" declines over time as the population ages. Second, the Committee noted that the selection of cardiovascular disease as the correction factor may itself have biased the result. They commented that because cardiovascular disease often manifests itself through early signs and symptoms, many individuals with cardiovascular disease would be excluded from military service. They also observed that malignant disease, on the other hand, is more difficult to detect at an early stage, particularly for cancers of the respiratory and digestive tracts. Therefore, the Committee commented, it would not be surprising to find a lower Standardized Mortality Ratio for cardiovascular disease than for malignancy in a screened population. The Committee questioned, therefore, whether it was appropriate to use the Standardized Mortality Ratio for cardiovascular disease as the correction factor for measuring the healthy worker effect for malignant disease. They also oberved that if some other disease were selected as the basis for correction, there would be no excess cancer in the exposed population as compared to the control population.

The second major point on which the Committee disagreed with the authors was the selection as the control group those veterans who had exposure of 300 millirem or less and the limitation of the analysis to the PLUMBBOB series. The Committee observed that if all five of the series of shots examined by the National Academy of Sciences were divided into two groups on the basis of exposure to more or less than 300 millirem, only in the PLUMBBOB series is there evidence of an elevated Standardized Mortality Ratio for the "higher" dose group. If the effect were in fact a true effect, one would expect it to occur in all of the tests in the series rather than be restricted to one test. The Committee also observed that if a different level of exposure were selected, for example 100 millirem, the difference in the Standardized Mortality Ratio between the control and the exposed group in the PLUMBBOB series is no longer significant.

The Committee believed that the analysis suggested by the authors was not appropriate. They commented that all that it demonstrated was that if the division point is changed, different results are obtained and those results are not uniform across the series of tests.

The Department agrees with the analysis and critique of the Advisory Committee.

[FR Doc. 89–17422 Filed 7–25–89; 8:45 am]

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federal register

Wednesday
July 26, 1989

Part II

Department of Defense

Corps of Engineers, Department of the Army

33 CFR Part 334

Danger Zone; Pacific Ocean Between Point Sal and Point Conception, CA; Final Rule

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Danger Zone; Pacific Ocean Between Point Sal and Point Conception, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is amending the regulations which establish danger zones in the Pacific Ocean near the Vandenberg Air Force Base (VAFB), California. In the best interest of the public, this amendment will extend the review period for these regulations for an additional five years. The regulations will be reviewed again in 1994. At the request of the U.S. Department of the Interior, Minerals Management Service (MMS), we are also amending the regulations by adding a reference to the MMS in the procedures for evacuation of personnel from drilling platforms.

ADDRESS: HQUSACE, CECW–OR, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard at (202) 272–1783 or Mr. Dave Castanon at (213) 894–5606.

SUPPLEMENTARY INFORMATION: Regulations were promulgated by the Department of the Army under 33 CFR 334.1130 to govern the use and navigation of danger zones located in the Pacific Ocean between Point Sal and Point Conception, Santa Barbara County, California. These danger zones were established to meet the security requirements of the Space and Missile Test Center, (SAMTEC), Vandenberg Air Force Base, and the exceptional hazard to persons and property due to missile launches and related activities. The regulations as presently promulgated remain in effect but required review and were reviewed during September 1987. On 24 March 1988, the Corps published a proposed rule in the **Federal Register**, 53 FR 9671–9672, which would eliminate the scheduled five-year reviews. Due to comments received in response to the proposed rule, we have decided that it is in the best interest of the public to continue to review the regulations every five years as is presently required. Accordingly, the regulations in 33 CFR 334.1130 will be reviewed again in August, 1994.

The regulations in § 334.1130 (b)(8) are amended by adding the U.S. Department of the Interior, Minerals Management Service as a proponent of evacuation procedures for certain oil drilling platforms.

Economic Assessment and Certification

This final rule is issued with respect to a military function of the Defense Department and the provisions of E.O. 12291 do not apply. I hereby certify that if adopted, this rule will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), transportation, danger zones. Accordingly, the Corps of Engineers is amending 33 CFR 334.1130 (b)(8) and (b)(11) as set forth below.

PART 334—DANGER ZONES AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3)

2. Section 334.1130(b) (8) and (11) is revised to read as follows:

§ 334.1130 Pacific Ocean, Western Space and Missile Center (WSMC), Vandenberg AFB, California; danger zones.

* * * * *

(b) * * *

(8) Fixed or movable oil drilling platforms located in zones identified as hazardous and closed in accordance with this regulation shall cease operations for the duration of the zone closure. The zones shall be closed continuously no longer than 72 hours at any one time. Such notice to evacuate personnel shall be accomplished in accordance with procedures as established by the Commander, WSMC, the U.S. Department of the Interior, Minerals Management Service and the oil industry in the adjacent waters of the outer continental shelf.

* * * * *

(11) The regulations in this section shall be in effect until further notice. They shall be reviewed again during August 1994.

Date: July 17, 1989.

Approved: Wilbur T. Gregory,

Colonel, U.S. Army, Executive Director of Civil Works.

[FR Doc. 89–17425 Filed 7–25–89; 8:45 am]

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federal register

Wednesday
July 26, 1989

Part III

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 171 Through 177
Training for Hazardous Materials Transportation; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 through 177

[Docket No. HM-126F, Notice No. 89-4]

RIN 2137-AB26

Training for Hazardous Materials Transportation

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: RSPA is proposing to amend the Hazardous Materials Regulations to enhance training requirements for persons involved in the transportation of hazardous materials. Based on information provided to RSPA through its hazardous materials incident reporting system, human error is the probable cause of most transportation incidents, and associated consequences, involving the release of hazardous materials. By requiring enhanced training for persons involved in the transportation of hazardous materials, it is intended to increase awareness of safety consideration and regulatory requirements involved in transporting hazardous materials and, thus, reduce the occurrence of hazardous materials incidents caused by human error.

DATES: *Comments:* Comments must be received on or before November 24, 1989.

Public hearing: Public hearings will be held 9:30 a.m. to 5:00 p.m. on October 3, 1989 in Salt Lake City, Utah and October 11, 1989 in Washington, D.C. If the number of speakers warrants an extra day, the Salt Lake City hearing will be extended through October 4.

ADDRESSES: *Comments:* Address comments to Dockets Unit, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590. Comments should identify the docket and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh St., SW., Washington, DC 20590. Public dockets may be reviewed between the hours of 8:30 a.m. to 5:00 p.m., Monday through Friday, except holidays.

Public hearing: The October 3, and October 4 if necessary, 1989 public hearing will be held at the Doubletree Inn, 215 W.S. Temple Street, Salt Lake City, Utah. The October 11, 1989 hearing will be held at the FAA Auditorium, Third floor, Federal Office Building 10A, 800 Independence Avenue, SW., Washington, DC.

Any person wishing to present an oral statement at the public hearing should notify the Dockets Unit, by telephone or in writing, at least two days in advance of the hearing date. Each request must identify the speaker; organization represented, if any; daytime telephone number; and the anticipated length of the presentation, not to exceed ten minutes. Written text or oral statements should be presented to the hearing officer prior to the oral presentation.

FOR FURTHER INFORMATION CONTACT: Carl V. Strombom or Delmer F. Billings, Standards Division, Office of Hazardous Materials Transportation, RSPA, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, Telephone: (202) 366-4488.

SUPPLEMENTARY INFORMATION:

I. Purpose and Objectives of This Rulemaking

In this document, RSPA is proposing to amend the Hazardous Materials Regulations (HMR) to require that persons who perform functions involving the transportation of hazardous materials receive training concerning regulatory requirements applicable to those functions, and persons who work in proximity to hazardous materials receive training concerning hazardous materials awareness and safety procedures.

Although RSPA refers to the term "in proximity" throughout this notice, the term has not been defined. RSPA is especially interested in obtaining comments on this term. In particular, RSPA solicits comments on the following: (1) What types of workers would be covered by the term "in proximity"?, (2) Is the term "in proximity" too vague? If so, how should "in proximity" be defined or clarified?

II. Background

A. Existing 49 CFR Training Requirements

The HMR are codified in Title 49 of the Code of Federal Regulations (49 CFR, Parts 171-179). Currently, §§ 173.1, 174.7, 175.20, 176.13 and 177.800 of 49 CFR contain general requirements for training. Section 173.1(b) states, in part, "* * * It is the duty of each person who offers hazardous materials for transportation to instruct each of his officers, agents, and employees having any responsibility for preparing hazardous materials for shipment as to applicable regulations in this subchapter." In Part 174, which addresses carriage by rail, § 174.7 states "Unless this subchapter specifically provides that another person is to perform a particular duty, each carrier, including a connecting carrier, shall perform the duties specified and comply with each applicable requirement of this part, and *shall instruct its employees in relation thereto.*" (emphasis added). Similar general requirements to instruct employees are contained in §§ 175.20, 176.13 and 177.800 for carriage by aircraft, vessel and motor vehicle, respectively. The purpose of these training requirements is to ensure that persons involved with hazardous materials transportation are aware of their duties and responsibilities under the HMR.

In addition to these general requirements for training, the HMR also contain specific training requirements applicable to carriers and drivers who transport flammable cryogenic liquids (§ 177.816) and highway route controlled quantities of radioactive materials (§ 177.825) by motor vehicle. For these categories of hazardous materials, carriers must insure that drivers receive written training which includes, in part, instruction concerning the requirements in the HMR which pertain to the material being transported and the properties and potential hazards of that material.

B. CRS Report

On April 4, 1986, the Congressional Research Service (CRS) published a report entitled "Should DOT's Training Regulations Affecting Workers Handling, and Drivers Transporting, Hazardous Materials Be Strengthened". Although the CRS report recognized that the hazardous materials transportation industry has a good safety record, the report concluded that "* * * increased training could reduce the frequency of incidents, lives could be saved, the amount of property losses and the number of injuries could be reduced".

The following is the CRS report's analysis of DOT's current regulations which pertain to the training of workers handling and drivers transporting hazardous materials by highway:

1. DOT's general training regulations covering workers handling hazardous materials in highway transportation can, at best, be considered to be vague; and they do not specify the nature, content, objectives, or length of the required instruction, its desired frequency, or when new employees should be trained. In addition, DOT's regulations do not require a certification or a testing program designed to ensure that these workers have a basic understanding of and sensitivity

toward the hazardous properties of, and risks associated with, the chemical with which they are dealing; nor do they require testing to ensure worker's awareness and understanding of appropriate emergency response procedures pertinent to releases of hazardous materials. The DOT training concept is, in general, to simply require thorough instruction of employees, leaving much in the way of training specifics, techniques, and testing up to the carrier.

2. Unlike many other safety concerns that are governed by complex and detailed HMT regulations, the Department, for the highway mode, appears to have devoted little attention to regulations addressing the major role that human error is judged to play as the probable cause of most hazardous materials transportaiton incidents. DOT's HMT training regulations do not emphasize the importance of human error and human engineering factors.

3. Although DOT's training requirements for drivers can vary depending on the material being transported, they are not consistently based on the potential risks associated with the commodity being shipped. Fairly rigorous and detailed Federal training requirements exist for drivers transporting highway route controlled quantity radioactive materials and flammable cryogenic liquids in cargo tanks on a public highway. But, drivers transporting most other hazardous materials, such as liquified petroleum gas, poisons, corrosives, and various regulated wastes, are generally not subject to the same detailed Federal driver training requirements. Some of these other hazardous materials, if released, can kill and injure, just as can the release of certain radioactive and flammable cryogenic materials. For example, from a technical and safety perspective, it makes little sense for DOT to have fairly detaled training regulations for drivers transporting liquified natural gas, which is a flammable cryogenic, but not for drivers transporting liquified petroleum gas. Both materials if improperly released, can result in catastrophic events.

4. DOT's training regulations for drivers are much more geared toward operational control of the vehicle than toward ensuring recognition of, and appreciation for, the hazards of the materials being transported.

5. As previously discussed, most drivers transporting hazardous cargoes simply have to take, but not necessarily pass, a 66-question, open-book examination; must be certified on various driver qualification requirements, including a road test; and be "thoroughly instructed" on the regulations. The eight questions on DOT's written examination dealing with the HMTR do not comprehensively test knowledge or understanding of these regulations. DOT's examination does not test whether someone is trained in, or has a basic understanding of, emergency response procedures appropriate to the job and responsibilities of being a driver of a truck transporting hazardous materials. A working knowledge of this information might be of life-saving benefit to drivers, emergency response personnel, such as police and fire fighters, and the affected public in case of an incident. Numerous experts who were interviewed for this report pointed out the need to improve this examination.

6. Although DOT's specific requirements for drivers transporting certain radioactive materials and flammable cryogenics are fairly detailed, DOT does not require a formal test and demonstration of the required knowledge called for by these regulations. DOT simply states that the drivers transporting these materials must be given written training materials.

7. Although DOT inspectors have cited alleged violations of various training regulations, the Department has only occasionally pursued an enforcement case to the point of collection of a penalty assessment.

8. DOT's regulations do not provide the Department with any quantitative measures of how well drivers or workers have been trained. Currently, DOT must rely primarily on its infrequent inspections, supplemented with information from State and local inspections, to obtain insights into how well industry is complying with, or understanding, its regulations.

The CRS report recognized that many questions remain unanswered when considering the adopting of stronger training requirements such as what is an appropriate level of training, particularly in terms of cost effectiveness, and what areas of the regulations training should encompass, i.e., what technical subjects and which procedures should be included in a training program. The CRS report points out that: (1) It would be difficult to develop the numerous training courses necessary to effectively train large segments of the hazardous materials transportation industry on the HMR; (2) in many instances, the private sector may already be providing a sufficient and cost effective level of training; and (3) the development of regulations to implement some of the training concepts could prove to be difficult and time consuming and involve DOT in unproductive micromanagement.

C. DOD Petition for Rulemaking

In a petition for rulemaking dated May 9, 1986, the Military Traffic Management Command (MTMC), on behalf of the Department of Defense (DOD) requested that 49 CFR 177.816 be made applicable to all drivers of hazardous materials. Section 177.816 requires motor carriers that transport flammable cryogenic liquids in cargo tanks to provide written training to their drivers. The training must be given before a driver is permitted to transport the hazardous material, and repeated at least once every two years thereafter. The training program must include instruction pertaining to requirements in the HMR applicable to cryogenic liquids, requirements in the Federal Motor Carrier Safety Regulations (49 CFR Parts 383, 387, and 390 through 397) applicable to drivers, the properties and potential hazards of the materials transported, safe vehicle operation including handling characteristics, emergency features and loading limitations, and procedures to be followed in case of accident or other emergency. The motor carrier must record the training in the driver's qualification file (required under 49 CFR 391.51), and the record must include the driver's name and operator's license number, the dates when training was provided and when next due, name and address of the person providing training, and a copy of the written training material. The MTMC proposal modified the language of § 177.816 to extend the scope of applicability to all drivers of motor vehicles transporting hazardous materials and to incorporate certain provisions currently found in § 177.825 for drivers of highway route controlled quantities of radiocative materials, which require that a driver have a certificate of training in his or her possession during transportation.

In support of its petition and proposed revision of § 177.816, MTMC states:

> * * * The provisions in the proposal are essentially a synthesis of existing requirements, with the scope of applicability extended to cover more than the two exceptional groups (flammable cryogenics and radioactive materials). We suggest that it apply to all hazardous materials shipments.
>
> A change of some sort is needed in 49 CFR 177.816, we feel, in part because the title of this section of rules misleads the reader to believe that these will be general training requirements rather than limited category-specific ones. Clearly there are needs in the Federal law for training requirements for drivers of hazardous material shipments. This section should provide what is expected and needed under the title "Training."
>
> Our interest in this action stems from our role as one of the largest domestic shippers of hazardous materials. Initially, we considered submitting a petition to add to the rules a section similar to 177.816 that would apply to shipments of Class A and B explosives. Upon reflection, the recommendations described above and in the enclosure seem more complete and ultimately more useful in preventing or intelligently managing transportation accidents involving dangerous cargoes.

III. DOT Proposal

This notice of proposed rulemaking (NPRM) is generally responsive to the problems identified by CRS and DOD and RSPA's own evaluation of the need for enhanced training requirements in the HMR. RSPA agrees, for the most part, with the CRS assessment of existing training requirements in the HMR and believes that these requirements are deficient. Enhanced training requirements, as envisioned in

this proposal, should improve compliance with packaging, hazard communication and handling requirements and help assure that transportation workers are aware of procedures to take when exposed to unintentional releases of hazardous materials.

The requirement to instruct, in the previously mentioned sections of the HMR, applies solely to instruction concerning regulatory requirements. In this notice, it is proposed to expand this requirement to address four categories of training: General awareness/familiarization, function-specific, safety and drivers training. The first three categories would apply to all modes of transportation while the fourth category of drivers training would apply only to highway transportation and motor vehicle operators.

General awareness/familiarization training is intended to make persons aware of the HMR and the purpose and meaning of hazard communication provisions, such as labeling, marking, and placarding provisions. All persons who perform functions covered by the HMR or who work in a transportation facility in proximity to hazardous materials would receive this training.

Persons who perform functions covered by the HMR would be required to be trained in how to perform those functions. For example, a person responsible for executing hazardous materials shipping papers would receive training concerning the applicable requirements of Subpart C of Part 172 and any applicable modal requirements, such as those in § 174.25 for rail shipments or §§ 176.24 and 176.27 for water transportation. This type of training is essentially what is required under the HMR at present.

Persons who work in proximity to hazardous materials during the course of its transportation (e.g., drivers and warehouse workers) and their supervisors would receive safety training. This training is intended to provide information concerning the hazards of the materials to which the person might be exposed, appropriate personal protection measures, and, if applicable, how to use emergency response information, methods and procedures for accident avoidance, and procedures to be followed in the event of an unintentional release of hazardous materials. The proposal is not intended to satisfy the training needs and requirements for transportation workers whose primary responsibilities involve emergency response. These persons are subject to training requirements prescribed by the Occupational Safety and Health Administration (OSHA) of the Department of Labor in 29 CFR 1910.120 which are discussed elsewhere in this preamble. Rather, the training is intended to address those transport workers who may have responsibilities for elemental emergency response, such as notifying others of the emergency, using fire extinguishers or other emergency control features, or otherwise mitigating the severity of release of materials. For example, a driver of a cargo tank containing hazardous materials would most likely not be expected to perform full emergency response services in the event of a leaking tank. However, the driver is responsible for notifying the appropriate authorities and may be assigned responsibility, by his employer, for using absorbent materials, diking a minor spill area, or as many similar immediate incident mitigation measures as possible.

Although all modes of transportation are covered by the requirements of this proposed rule, the final category of training being proposed is driver training for motor vehicle operators. Based on the merits of the CRS report and RSPA's own evaluation, improved hazardous materials training of drivers would likely have a significant beneficial impact on transportation safety. There are far more shipments of hazardous materials and, correspondingly, incidents involving the release of hazardous materials, in the highway mode of transportation than for rail, water and air combined. Improved training of drivers has the potential for making significant gains in accident avoidance and accident mitigation. Another incentive for RSPA's proposal is to continue the rulemaking effort begun by the Federal Highway Administration (FHWA) under Docket MC–120, discussed elsewhere in this preamble.

Drivers would be subject, in most instances, to general awareness/familiarization, function specific and safety training. In addition, it is proposed to require drivers training on the safe operation of the motor vehicle which they expect to operate and the applicable requirements of the Federal Motor Carrier Safety Regulations. At a later date, RSPA may consider more specific training requirements for operators of aircraft, trains, and vessels.

RSPA's proposal addresses broad subject areas in which training is to be received. With the exception of cargo and portable tank operations, detailed content of training would not be specified. RSPA does not have the resources to develop specialized courses of instruction addressing every phase of hazardous materials transportation. Furthermore, it is believed that an employer is better able to determine the training needs of its employees, particularly with regard to function specific, safety and driver training. For the same reason, no attempt has been made to specify the level and duration of training, which will vary with job duties and responsibilities. For example, training for a person who executes shipping papers might consist of a brief orientation on the general provisions of the HMR and written training on applicable shipping paper requirements in Subpart C of Part 172. It is believed that in most cases, an employee could receive an appropriate amount of training (to include general awareness, function specific and safety training) in a session of minimal duration.

The DOT recognizes that cargo and portable tank vehicle operations, and the qualifications and training of tank vehicle drivers, present special concerns. For example, in the FHWA's final rule on Commercial Drivers Licenses (CDL), statistics are cited for accidents involving tank vehicles, which includes both cargo and portable tanks in the FHWA definition (52 FR 27642). In 1986 there were 818 accidents reported to the Department involving tank vehicles transporting hazardous materials resulting in 136 fatalities, 761 injuries, and over $17 million in property damage. The most important operating difference between driving a cargo tank motor vehicle or a vehicle containing a portable tank and a standard dry freight truck is liquid product surge. Other factors that may threaten vehicle stability and present a safety risk, include: Sloshing liquids in various tank designs; various loading conditions; and the impact of liquids on driving maneuvers such as braking, backing, turning, and combined braking/steering maneuvers.

Because of the unique characteristics of cargo tank motor vehicles and vehicles containing a portable tank, and because of the potential for damage inherent in their cargoes, the RSPA regards special training and licensing requirements for their drivers as essential to the public safety. For example, the FHWA has already ruled (52 FR 27628) that drivers of tank vehicles carrying placardable hazardous materials must have not only a CDL but also two separate endorsements ("tank vehicle" and "hazardous materials"), each of which requires a specialized knowledge test. RSPA believes special emphasis should be placed on these types of vehicles. Therefore, the rule proposed herein sets forth additional

training requirements in § 177.816(b) for this safety sensitive class of vehicles.

RSPA has intentionally made the proposed requirements as broad as is practicable to accommodate training programs and materials currently used in both the public and private sectors. This approach provides latitude to both the private and public sectors for the development of training programs or materials.

It is proposed that training be received within 30 days of employment of a person to perform hazardous materials job functions subject to the requirements of the HMR. This requirement, however, would not restrict a new employee from performing their hazardous materials job functions under proper supervision prior to the employee's receipt of training. Persons would also be retrained within thirty days upon change of hazardous materials job functions and at least once every two years thereafter.

RSPA believes a two year cycle is necessary for an employee to remain adequately informed of the HMR because retention of certain kinds of information fades quickly if it is not frequently applied or reenforced through training, and because of periodic changes in the HMR. RSPA encourages comments on the two year cycle and whether it should be longer or shorter.

While responsibility for providing training would remain on the employer, the required training could be provided by company training programs or through the use of outside training firms or consultants. This is consistent with existing requirements in the HMR.

RSPA also proposes a requirement that employers create and maintain a record reflecting completion of required training for each employee. This requirement is believed necessary in order to verify compliance with the training requirements.

Considering the diversity of job functions of persons addressed by this proposal, RSPA does not believe it is practical to propose requirements for testing employees to ensure that they have been succesfully trained. Comments are solicited as to the need, if any, for regulatory requirements for testing, the scope and content of such testing requirements, and who should be responsible for administering them.

Enforcement of the proposed training regulations pertaining to carriers would remain the primary responsibility of the various modal administrations. For example, the FHWA plans to enforce the proposed training requirements when it conducts safety and compliance reviews of individual motor carriers. If motor carriers are determined to be in non-compliance with the training requirements, the FHWA will take remedial actions, which could result in penalties and fines.

The expansion of Federal training requirements proposed in this Notice inevitably requires consideration of the extent to which such requirements would preempt related or overlapping state training requirements. In accordance with Executive Order 12612, RSPA intends to restrict its preemption of state law to the minimum level necessary to achieve the objectives of the Hazardous Materials Transportation Act (HMTA) and the HMR.

However, RSPA views these proposed training requirements, insofar as they apply to drivers engaged in the highway transportation of hazardous materials, as minimum requirements which a state may only exceed if its greater requirements do not directly conflict with the HMR requirements and apply only to individuals domiciled in that state. Thus, more stringent or more detailed state training requirements for drivers not in conflict with the HMR could be "consistent," and therefore, not preempted under section 112(a) of the HMTA (49 App. U.S.C. 1811(a)), so long as they applied only to drivers domiciled in that state. The foregoing principles are reflected in proposed § 172.701.

The following is an example of how this approach to preemption would operate with respect to hazardous materials endorsements to drivers licenses. The Commercial Motor Vehicle Safety Act of 1986 provides for a single commercial driver's license (CDL) for each driver of a commercial motor vehicle (CMV). Section 12009(a)(14) of that Act and an implementing FHWA rule, 49 CFR 383.73 (53 FR 27628, 27651, July 21, 1988), require states to extend reciprocity to CDL's issued by other states. Under the FHWA rule and the rule proposed in this Notice, a state may impose more stringent hazardous materials training requirements upon its own commercial motor vehicle drivers than do Federal regulations—but may not do so with respect to a driver holding another state's CDL with a hazardous materials endorsement thereon.

RSPA's proposed approach to this preemption issue is intended to avoid a chaotic and burdensome situation in which numerous states would apply separate and possibly inconsistent training requirements to drivers engaged in the highway transportation of hazardous materials.

In addition to the comments requested elsewhere in this notice, RSPA is especially interested in receiving comments that concern estimates, by mode of transportation, of the cost of training with regard to each of the four categories of training proposed—in particular the cost of training not presently provided, estimates of the benefits to be derived from the various categories of training in terms of reduction or mitigation of property damage and personal injury, and comments concerning the adequacy of the proposed training for drivers and the possible need for additional training requirements for operators in other modes of transportation.

IV. Section by Section Summary of Proposals

A. Part 171; General Information, Regulations, Definitions

Section 171.8. The definition of crewmember would be revised to include those persons assigned to perform duties on aircraft during flight time, on a motor vehicle or a vessel during transportation, or in train or engine service.

B. Part 172; Hazardous Materials Table and Hazardous Materials Communications and Training Requirements

Part 172. A new Subpart H—Training, including §§ 172.700 through 172.704, would be added and the Part title revised to reflect the additional training requirements.

Section 172.700. A new § 172.700 would be added, identifying the purpose of the training requirements, which are generally to provide information and training in the functions a person performs, safety and accident preventative measures and proper handling of incidents involving hazardous materials. This section also defines "training" as a systematic program that ensures a person has knowledge of hazardous materials and the hazardous materials regulations that govern their transportation. For example, an employee may satisfy this requirement by on the job training, showing evidence of previous training in the functions which he/she performs, formal classroom training or by taking correspondence courses. However, successful completion of one or all of the above may be necessary before an employer is satisfied that the employee is adequately trained in accordance with the proposed training requirement. Much of this hazardous materials knowledge can be obtained through present industry and trade organization training programs as mentioned in the discussion of § 172.704 in this preamble.

Employers with employees who have demonstrated hazardous materials knowledge by obtaining a hazardous materials endorsement to their commercial drivers licenses (CDL), a cargo tank endorsement to the CDL, a USCG license that requires hazardous materials knowledge, or through participation in any other job training or licensing program, may accept such demonstration of knowledge to satisfy the appropriate requirements of this notice such as general awareness/familiarization training or other required training. However, all such training would still be subject to the two year frequency requirements of this notice.

Section 172.701. A new § 172.701 would be added to emphasize that OHMT's training requirements are minimum requirements. The section would also authorize a state to impose more stringent training requirements on drivers so long as those requirements do not conflict with the HMR and apply only to drivers domiciled in that state.

Section 172.702. The proposals contained in this section identify those persons to whom the training requirements apply. Generally, these requirements would apply to all persons involved in the preparation, documentation, packaging, marking, labeling, shipping, handling, and transporting of hazardous materials. Further, those individual working in proximity to hazardous materials would be required to be trained in certain aspects of the regulations, such as labelling, placarding, and marking provisions of the HMR.

Although employers would be responsible for ensuring that their employees are properly trained, it would be acceptable for an employer to use the services of an employee on loan from another company, a transfer employee, or any other employee that had received the required hazardous materials transportation training from another source provided that training could be verified. Retraining would not be necessary as long as all required training for the job functions performed had occurred during the two year frequency requirement proposed by this notice.

Section 172.704. This section identifies the three degrees of training that would be required. Generally, everyone subject to these training requirements would be required to be provided general awareness and familiarization training. This training would include trianing in such areas as the various hazard classes and hazard communication requirements and their meaning.

Those persons performing specific tasks subject to the HMR, such as packaging or shipping paper documentation, would be required to be provided function specific training designed in such a fashion so as to assure that they are able to perform their task in compliance with the requirements of the HMR. Additional safety training would be required, identifying the hazards of the materials, proper protection from exposure, use of emergency response information, and the methods and procedures for accident avoidance.

Although a specific level, duration, and content of the training provided is not specifically identified, such training would be required to be presented so that those involved could properly perform their specific functions and be knowledgeable in the requirements of the HMR. Periodic training would be required. RSPA does not believe that this would cause an undue burden on employers, especially since many employers have established training programs. For instance, rail carriers are required by the Federal Railroad Administration (FRA) to periodically instruct their employees on the meaning and application of the railroad's operating rules. In addition, rail carriers are required to be familiar with operating timetables. Both the timetables and the operating rules contain information on hazardous materials. Present rail carrier training on the rules and timetables would help the rail industry comply with the requirements of the proposed rule.

Professional and trade associations also provide training that could help meet the requirements of this section. The American Trucking Association provides training through its state organizations and through the sale of items such as the publication, Handling Hazardous Materials, which describes the harzardous materials regulations in layman's terms, and a slide program that consists of different modules on specific hazardous materials requirements, such as shipping papers or marking or labeling. The National Tank Truck Carriers, Inc., has produced and sells a slide program and accompanying manual for tank truck drivers on flammable liquids, the most commonly transported hazard class carried by its members.

In addition to the various trade organizations, some trucking companies provide hazardous materials training for their own personnel or utilize the resources of various consulting firms to train company employees. Present training performed in this manner could also help meet the requirements of this proposal.

This notice proposes that recurrent training be provided at least once every two years, that persons who change hazardous materials job functions be trained in those new functions within thirty days of their job change, and that new employees be trained within thirty days after being hired to perform a function subject to the HMR. However, the requirements of this section do not preclude the use of an employee who requires training, in a hazardous materials job function if that employee is under the supervision of a properly trained and knowledgeable employee.

Further, a record of the training would be required to be maintained by the employer for the duration of the employee's employment and for 90 days thereafter. The record of training would contain the name and signature of the person receiving the training, the date it was presented, a copy of the training material presented or a description of the training given, and the name and signature of the individual presenting the training.

RSPA encourages readers to submit comments regarding the requirement for a training record. RSPA is particularly interested in comments that address the following questions:

1. Is the record of training proposed in this notice the best method to certify completion of required training? If not, what method would be better?

2. Would self certification by an employer be an acceptable method to ensure completion of required training? What documentation should be maintained?

C. Part 173—Shippers—General Requirements for Shipments and Packagings

Section 173.1. In § 173.1 paragraph (b) would be revised to reflect the proposed new requirements for training of persons involved in the shipment and transportation of hazardous materials.

D. Part 714—Carriage by Rail; Part 175—Carriage by Aircraft; and Part 176—Carriage by Vessel

Sections 174.7, 175.20, and 176.13, respectively. These respective sections would be revised to specifically require employers to provide the training as required by the new Subpart H of Part 172. Section 176.13 would also require the record of training required by § 172.704(c) to be kept on board any vessel with crewmembers.

E. Part 177—Carriage by Public Highway

Section 177.800. The last sentence of paragraph (a) would be deleted and a new § 177.800a would be added.

Section 177.800a. This new section would be added to specify that employers provide the training as required in Part 172 and the additional driver (operator) training required by this Part.

Section 177.816. This section would be revised to specifically identify the additional training that would be required to be presented to drivers of motor vehicles. This section would require: Drivers be provided training in the requirements of the Federal Motor Carrier Safety Regulations, 49 CFR Parts 383, 387, and 390 through 399; the operation of the motor vehicle that the driver will be operating, including vehicle characteristics; proper procedures regarding tunnels, bridges, and railroad crossings; vehicle controls, including safety and emergency equipment; requirements for attendance and parking; and any other aspect relative to the safe operation of the motor vehicle. In addition, specialized training requirements for cargo tank motor vehicle operators and drivers of motor vehicles containing portable tanks are contained in this section. To avoid duplication of the requirements of proposed § 172.704, the requirements for a separate special training record for the drivers of vehicles that contain flammable cryogenic liquids would not be necessary and would be removed. A discussion regarding the implementation of § 177.816 appears later in this notice.

Section 177.825. In § 177.825, paragraph (d) would be revised to eliminate unnecessary duplication of the proposed training requirements. Paragraph (d)(1) would be changed to refer the reader to the proposed training requirements found in Subpart H of Part 172 and § 177.816. For drivers of highway route controlled quantities of radioactive materials, paragraph (d)(2) would be revised to remove the requirement for employers to place a copy of the record of training in the driver's qualification file as this would be a duplication of the requirements in proposed § 172.704. For these drivers, the requirements of paragraph (d) (2) and (3) to have a copy of the record of training and a route plan in the driver's possession would remain unchanged.

V. Relationship to Other Agencies' Existing or Proposed Rules

A. FHWA

On May 13, 1986, FHWA published a notice of proposed rulemaking in the **Federal Register** (51 FR 17572; Docket No. MC–120, Notice No. 86–3) in response to section 206 of the Motor Carrier Safety Act of 1984. The notice proposed revisions to driver qualification requirements in the Federal Motor Carrier Safety Regulations to insure that drivers who operate either commercial motor vehicles transporting certain categories of hazardous materials or cargo tank commercial motor vehicles requiring placards meet additional or more stringent qualification requirements. In the preamble to Docket No. MC–120, FHWA stated the following:

> Upon leaving a shipper's facility or a motor carrier's terminal, a driver operating a commercial motor vehicle laden with hazardous materials is, for all intents and purposes, on his/her own. In the event of an accident involving that motor vehicle, a driver having certain knowledge of the hazardous materials being transported can greatly assist emergency response personnel and can mitigate potential catastrophic occurrences. Further, basic knowledge of the hazardous materials requirements can help keep accidents and incidents from occurring. With this in mind, the FHWA proposes to require a driver, who will be operating a commercial motor vehicle used to transport Table 1 hazardous materials or operating a cargo tank commercial motor vehicle which must be placarded, to receive certain basic hazardous material training. We believe that the driver must have a functional knowledge of the Hazardous Materials Regulations addressing: (1) Shipping papers, (2) package marking requirements, (3) package labeling, (4) packaging requirements, (5) commercial motor vehicle placarding, and (6) the loading and storage of H/M. Further, the driver must have a functional knowledge of the requirements contained in Part 397 of the FMCSR pertaining to: (1) Vehicle attendance; (2) vehicle parking; (3) route selection; and (4) smoking by the driver.
>
> Individuals who will be operating cargo tank commercial motor vehicles required to be placarded in accordance with § 177.823 of this title must, in addition to the training described above, be trained in the: (1) Operation of the emergency control features of the cargo tank; (2) operation of the emergency equipment required by § 393.95; and (3) proper loading and unloading of the cargo tank, including vehicle attendance requirements.
>
> The FHWA believes a driver who is knowledgeable on these areas can help to insure that shipping papers are properly prepared and that hazardous materials packages carried on the vehicle are in fact listed on the shipping papers. Such a trained driver can also identify improper packaging and labeling during the loading process and insure that the vehicle is properly placarded for the hazardous materials classes being transported. This functional knowledge will provide an additional measure of safety to highway transportation.

Comments to Docket No. MC–120 generally supported the proposed additional training and driver qualification requirements. However, because of similar proposals contained in RSPA's present rulemaking and a rulemaking action of the FHWA discussed below, FHWA has decided that further action under Docket MC–120 is unnecessary and has withdrawn the docket (54 FR 7191, Feb. 17, 1989).

On December 11, 1987, FHWA published a notice of proposed rulemaking in the **Federal Register** (52 FR 47326; Docket No. MC–87–18) concerning commercial driver testing and licensing standards. A final rule (FR) was issued on July 15, 1988 (53 FR 27628). The FR establishes standards for commercial driver licensing and testing procedures to be used by the States; knowledge, skills and abilities which drivers of different types of commercial motor vehicles must possess; and the information to be contained on the commercial driver's license (CDL) issued by the States. Of interest to the present discussion is that the FHWA rule requires specific endorsements to the CDL for hazardous materials drivers and (cargo) "tank vehicle" drivers. When requirements for the CDL are fully implemented, an applicant for a CDL will have to pass a knowledge test pertaining to safe operations regulations, safe vehicle control, vehicle inspections and certain other areas, and a driving skills test pertaining to basic vehicle control skills and safe driving skills. An applicant for a hazardous materials endorsement will have to pass an additional knowledge test pertaining to the HMR, hazardous materials handling, operation of emergency equipment and emergency response procedures. Also, a driver who applies for renewal of a hazardous materials endorsement will be retested. An applicant for a tank vehicle endorsement will have to pass a knowledge test pertaining to cargo tank safety.

RSPA has attempted to align the training requirements proposed in this NPRM with the testing and knowledge requirements adopted by the FHWA in Docket No. MC–89–18 and believes that this has been accomplished. If a driver has successfully obtained the hazardous materials and tank vehicle endorsements to the CDL, these endorsements may be used to satisfy some, if not all, of the training requirements proposed in this notice, especially the awareness and general knowledge portions. However, it would remain the responsibility of the employer to insure that their drivers are

properly trained. The responsibility to train would also cover other employees subject to training, including drivers that are not required to have CDL endorsements such as drivers of vehicles that do not require placards.

To ascertain what role, if any, CDL endorsements might play in satisfying proposed training requirements of this notice, RSPA solicits comments on the following questions.

1. To what extent should the CDL hazardous materials and tank vehicle endorsements be allowed to satisfy the training proposals in this notice?

2. Should drivers who have received these endorsements be excepted from some or all of the training requirements proposed in this NPRM?

3. This notice proposes that training be performed every two years. Although the FHWA does not specify a time limit for the CDL, most states allow a four year time span before the CDL expires and retesting of HM drivers is required. Should RSPA's proposed training requirements be closely aligned with current CDL licensing practice for drivers and be required every four years, or should RSPA's required training be on a two year or more frequent basis?

B. FRA

On June 22, 1988, the 100th Congress enacted Pub. L. 100–342 to amend the Federal Railroad Safety Act of 1970 (45 U.S.C. 431). Commonly known as the Rail Safety Improvement Act of 1988, Pub. L. 100–342 has provided the FRA with numerous statutory amendments, some of which concern training requirements.

For instance, the 1988 Act amended section 202 to require the development of rules, regulations, orders, and standards as necessary to establish a program requiring the licensing or certification of any operator of a locomotive. The Act further specifies that any program developed must provide minimum training requirements and shall also require a comprehensive knowledge of applicable railroad operating practices and operating rules. Rules concerning the 1988 Act are presently under development by the FRA.

In addition to the requirements of the Rail Safety Improvement Act of 1988, the 49 CFR Part 217 currently requires each railroad to file a copy of their operating rules, timetables, and timetable instructions with the FRA. These rules and timetables contain information on railroad operating practices, including the rail transportation of hazardous materials. Each railroad is required to instruct its employees in the operating rules and must periodically conduct operational tests and inspections to determine the extent of compliance with its code of operating rules, timetables, and any timetable special instructions. In this manner, carriers can determine if their employees understand how to apply the hazardous materials information contained within the operating rules.

RSPA believes the training requirements of this NPRM will not conflict with the rail industry's current training on operating rules and timetables. In addition, the training standards contained in this proposed rule are written in a manner that should supplement any future rulemaking by the FRA regarding the requirements of the Rail Safety Improvement Act of 1988. However, to ensure that the proposed training requirements of this NPRM are compatible with present rail training programs, RSPA solicits comments concerning the following question: Would RSPA's proposed training requirements complement, or conflict with, present rail industry training efforts?

C. USCG

The International Maritime Dangerous Goods (IMDG) Code is recognized as the worldwide standard for the carriage of packaged hazardous materials by vessel. It is incorporated by reference in the HMR as an optional alternative for carriage of hazardous materials on vessels. Nearly all of the international hazardous materials trade by vessel now moves in conformance with the IMDG Code. Consequently, crews of vessels and personnel at port facilities will encounter IMDG Code classed, marked, labeled, placarded, packaged, stowed, and segregated shipments as the norm rather than the exception.

The U.S. Coast Guard requires persons seeking licenses which authorize service as master or mate of a vessel to successfully complete examinations which include material on hazardous materials cargo handling and stowage, loading and discharging operations, and the HMR. Section 176.57 of the HMR requires all hazardous materials handling and stowage aboard a vessel to be under the direction and observation of a qualified person specifically assigned to this duty. Except for limited domestic voyages, where the qualified person may be an employee of the carrier, this function must be carried out by a licensed officer. In addition, Coast Guard regulations require the master of a vessel to conduct weekly emergency drills in which all crewmembers are exercised in their assigned response duties. RSPA understands that these drills often include exercises that may satisfy some of the proposed training requirements. For example, shipboard firefighting drills could satisfy the emergency response requirements of § 172.704(a)(3)(ii) or (iv).

In view of the widespread use of the IMDG Code, the supervisory roles of the master and other licensed officers, and the existing emergency drills required aboard vessels, RSPA and the Coast Guard are especially interested in comments concerning the vessel transportation of hazardous materials in the following areas:

1. Should training in the maritime mode be based on the IMDG rather than the HMR? Should training on the IMDG Code be accepted as a alternative to training on the HMR, or should training be required in both the IMDG Code and the HMR?

2. Licenses authorizing service as master or mate are renewed every five years, provided the holder has recent service under the license, without further examination on hazardous materials subjects. Is the proposed two year retraining requirement appropriate for these personnel?

3. Would currently required emergency drills, as noted in the vessels log, be an adequate substitute for the proposed training and record keeping?

D. OSHA

On November 25, 1983, OSHA published a Hazard Communication Standard (48 FR 53280) which required that manufacturers have hazard communication programs for their employees exposed to hazardous chemicals. This standard was amended on August 24, 1987, with publication of a final rule entitled "Hazard Communication" (52 FR 31852). This amendment extended applicability of the existing standard from employees in manufacturing industry (SIC Codes 20 to 39) to also include employees in the non-manufacturing industry sector, such as those covered by 40-series SIC Codes for transportation. Under the amended standard, virtually all employers are required to inform their employees about the hazardous chemicals which are present in the work place. Generally, employers are required to establish for their employees written hazard communication programs that inform their employees about the hazardous chemicals present in the work place. Further, employers are also required to establish training programs which teach employees how to protect themselves from the hazardous chemicals to which they may be exposed by using

engineering controls and following safe operating procedures.

In the amended standard, OSHA recognized that there were various types of work situations in the non-manufacturing sector where it was not feasible to comply with these requirements; therefore, OSHA excepted certain work places and facilities from its requirement for a written hazard communication program. Specifically, paragraph (b)(4) of § 1910.1200 of the OSHA standard exempts "work operations where employees only handle chemicals in sealed containers which are not opened under normal conditions of use (such as are found in marine cargo handling, warehousing, or retail sales)". This exception applies to many transportation facilities. However, employers must ensure that their employees are provided with information and training "* * * to the extent necessary to protect them in the event of a spill or leak of a hazardous chemical from a sealed container."

RSPA issued a final rule on June 27, 1989, addressing emergency response communication standards (Docket HM-126C; 54 FR 27138). The rule requires that facilities and vehicles involved in hazardous materials transportation maintain certain emergency response information regarding the hazardous materials which are present. It is possible to comply with this information requirement by having a copy of DOT's Emergency Response Guidebook (ERG), material safety data sheets, or similar emergency response document. The RSPA training requirements now being proposed which pertain to hazard communication and the handling of hazardous materials incidents have a direct correlation to, and complement, the information requirements adopted in Docket HM-126C. Conformance with the information and training requirements proposed in this notice and those adopted in Docket HM-126C should fulfill the intent of OSHA's final rule pertaining to hazard communication.

On December 19, 1986 (51 FR 45554), OSHA published an interim final rule on hazardous waste operations and emergency response that was required by Congress in the Superfund Amendments and Reauthorization Act of 1986 (SARA; Pub. L. 99-499). On August 10, 1987, OSHA published an NPRM in the **Federal Register** (52 FR 29620) that proposed to amend the OSHA standards for hazardous waste and emergency response in 29 CFR 1910.120. On March 6, 1989 a final rule was published in the **Federal Register** (54 FR 9294). When the final rule becomes effective on March 6, 1990 the interim final rule of December 19, 1986 will be revoked. The interim OSHA rule will remain in effect until then.

The interim OSHA rule covers workers involved in operations covered by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended (CERCLA; 42 U.S.C. 9601 *et seq.*), in certain hazardous waste operations conducted under the Resource Conservation and Recovery Act of 1976 as amended (RCRA; 42 U.S.C. 6901 *et seq.*), and in any emergency response to incidents to incidents involving hazardous substances. The standard provides for employee protection during initial site characterization and analysis, monitoring activities, materials handling activities, training, and emergency response.

Of interest to the present discussion are certain provisions that impact on transportation workers, particularly with regard to training. Section 1910.120(l) (1) of the March 6, 1989 OSHA final rule addresses emergency action plans which comply with 29 CFR 1910.38(a). Under § 1910.38(a), emergency action plans are used to establish evacuation procedures to be used in emergency circumstances. Employers must review with employees those parts of the plan which the employee must know to protect the employee in the event of an emergency. In RSPA's proposal, § 172.704(a)(3)(iv) would require that employees receive training concerning "immediate procedures to be followed in the event of an unintentional release of a hazardous material, an accident, or other emergency, including any emergency response procedures for which the person is responsible, operation of emergency equipment, and personal protection procedures to be followed if exposed to the release of a hazardous material". This RSPA proposed provision could be used to satisfy, at least in part, the OSHA provision with respect to transportation workers.

In 29 CFR 1910.120(e)(7), OSHA requires training for employees who are engaged in responding to hazardous emergency situations at hazardous waste clean up sites. OSHA requires that these employees are trained in how to respond to such emergencies. Section 1910.120(p)(8)(iii) of OSHA's March 6, 1989 final rule requires completion of training for emergency response employees before they are called upon to perform in real emergencies. Generally, these employees are required to receive training in the elements of the emergency response plan, standard operating procedures the employer has established for the job, the personal protective equipment to be worn and procedures for handling emergency incidents. The training of emergency response personnel is beyond the scope of RSPA's proposal. RSPA proposes to include a note at the end of paragraph (a) of § 172.704 to advise persons of OSHA requirements for emergency responders. However, it should be noted that the training required under this portion of the OSHA proposal could be used to satisfy RSPA requirements in proposed § 172.704. Further, there are certain categories of workers who are excepted from the OSHA requirement for complete emergency response training for whom the training required by RSPA may be used to satisfy other OSHA training requirements. For example, employees that do not have responsibility to control the emergency, but may first respond to an incident, are excepted from various aspects of the training if they have sufficient awareness training to recognize that an emergency response situation exists and are instructed to summon fully-trained emergency responders and not attempt to control activities for which they are not trained (see 29 CFR 1910.120(p)(8)(iii)(A)). A second exception provided in 29 CFR 1910.120(p)(8)(iii)(A) wherein certain employees need only be trained to have sufficient awareness training to recognize the emergency and call a designated fully-trained emergency response team. For both of these aforementioned categories of workers, RSPA's proposed training requirements could be used to satisfy OSHA requirements.

In addition to the OSHA requirements of 29 CFR Part 1910, there are specific OSHA training requirements for marine terminal personnel found in 29 CFR Parts 1917 and 1918. In particular, 29 CFR Part 1917 are regulations for marine terminals and apply to "* * * employment within a marine terminal, including the loading, unloading, movement or other handling of cargo, ship's stores or gear within the terminal or into or out of any land carrier, holding or consolidation area, or any other activity associated with the overall operation and functions of the terminal, such as the use and routine maintenance of facilities and equipment." Section 1917.28 outlines standards for hazard communications and includes requirements for container labeling and other forms or warning, material safety data sheets and employee training. Identical requirements to Part 1917 are also

contained in 29 CFR 1918.90 and apply to longshoremen and others (not including vessel crew members) involved in cargo handling operations aboard the vessel while it is in port.

Training performed to satisfy either OSHA or RSPA requirements could be used to satisfy, at least in part, the other agencies' hazardous materials training requirements. Although there is a certain amount of overlap in the RSPA proposal and OSHA final rule of March 6, 1989 due to differing statutory considerations, RSPA believes that the overall provisions are complementary and will not result in duplicative requirements.

To help determine the actual training burden that OSHA's rules and RSPA's proposed training requirements may cause, RSPA encourages readers of this NPRM to respond to the following questions:

1. Some employees may be covered by both OSHA and DOT training requirements. Are RSPA's proposal compatible with OSHA's? Could training required by OSHA help satisfy RSPA's proposed training? How much of an additional training burden will RSPA's proposals cause for those employees that are covered by both OSHA's and RSPA's training requirements?

2. In some cases organizations may have distinct groups of employees who perform different responsibilities. Some of these workers may be covered by only OSHA training requirements, while other employees of the same organization are subject to RSPA training requirements. How much of an additional training burden on employers will RSPA's proposals cause in this case?

VI. Administrative Notices

A. Executive Order 12291

The RSPA has determined that this proposed rule (1) is not "major" under Executive Order 12291; (2) is "significant" under DOT's regulatory policies and procedures (44 FR 11034); (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). A preliminary regulatory evaluation is available for review in the Docket.

B. Executive Order 12612

This proposed action has been analyzed in accordance with the principles and criteria in Executive Order 12612 and, based on the information available to it at this time, RSPA does not believe that the proposed rule would have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. RSPA is proposing minimum standards and is not requiring states to adopt them. Furthermore, states would be able to impose more stringent requirements to highway transportation—so long as they did not conflict with the Federal regulations or interfere with the rights of other states (e.g., each state's right to impose its own training requirements on employees domiciled in the state, including its own commercial driver's license (CDL) requirements within FHWA prescribed parameters). Thus, under proposed § 172.101, a state would be permitted to impose its more stringent highway requirements only upon "persons" domiciled in that state.

C. Impact on Small Entities

RSPA is aware that amendments of such broad applicability may produce an economic impact on industry segments, a substantial number of which may be small enterprises. These enterprises may include hazardous materials shippers, carriers, warehousemen, freight forwarders, manufacturers of hazardous materials containers, and other transportation organizations that have small numbers of employees and limited gross revenues. Based on limited information concerning size and nature of entities likely affected by this notice, I certify this regulation will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation is available for review in the Docket.

D. Paperwork Reduction Act

The collection of information in this notice of proposed rulemaking is being submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, attention: Desk Officer for the Department of Transportation. All comments must reference the title for this notice. "Training for Hazardous Materials Transportation".

The collection of information requirements of this notice are found in § 172.704(c), Recordkeeping. The record would be required by the Department of Transportation to assure compliance with the training requirements proposed in Subpart H of this notice. The likely respondents and recordkeepers are hazardous materials transportation concerns of all types including, but not limited to, shippers, trucking companies, railroads, operators of water vessels, air freight companies, warehousemen, freight forwarders, etc.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Matter incorporated by reference.

49 CFR Part 172

Hazardous materials transportation, Training.

49 CFR Part 173

Hazardous materials transportation, General requirements.

49 CFR Part 174

Hazardous materials transportation, Carriage by rail.

49 CFR Part 175

Hazardous materials transportation, Carriage by aircraft.

49 CFR Part 176

Hazardous materials transportation, Carriage by vessel.

49 CFR Part 177

Hazardous materials transportation, Carriage by highway motor vehicle.

In consideration of the foregoing, 49 CFR Parts 171 through 177 would be amended to read as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for Part 171 would continue to read as follows:

Authority: 49 U.S.C. 1802, 1803, 1804, 1808; 49 CFR Part 1, unless otherwise noted.

2. In § 171.8, the definition for "crewmember" would be revised to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

"Crewmember" means a person assigned to perform duty in an aircraft during flight time, on a motor vehicle or a vessel during transportation, or in train or engine service.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS AND TRAINING REQUIREMENTS

3. The authority citation for Part 172 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, and 1806; 49 CFR Part 1, unless otherwise noted.

4. The title to Part 172 would be revised to read as set forth above.

5. A new Subchapter H would be added to Part 172 to read as follows:

Subpart H—Training

Sec.
172.700 Purpose and scope.
172.701 Preemptive effect.
172.702 Applicability and responsibility for training.
172.704 Training requirements.

Subpart H—Training

§ 172.700 Purpose and scope.

(a) This subpart prescribes training requirements concerning—

(1) The risks of hazardous materials;

(2) The requirements of this subchapter which apply to functions that persons perform;

(3) Safety and accident avoidance; and

(4) Handling hazardous materials incidents.

(b) "Training" as used in this subpart means a systematic program that ensures a person has knowledge of hazardous materials and the hazardous materials regulations. Such knowledge may be obtained through the use of traditional industry training, instruction, testing or other means of training that would normally be tailored to an employee's specific job functions.

(c) Additional training requirements for the individual modes of transportation are prescribed in Parts 174, 175, 176 and 177 of this subchapter.

§ 172.701 Preemptive effect.

This subpart and the parts referenced in § 172.700(c) prescribe minimum training requirements for the transportation of hazardous materials. For motor vehicle drivers, however, a state may impose more stringent training requirements only if those requirements—

(a) Do not conflict with the training requirements in this subpart and in Part 177 of this subchapter, and

(b) Apply only to drivers domiciled in that state.

§ 172.702 Applicability and responsibility for training.

(a) It is the responsibility of each employer of a person subject to the requirements of this subpart to ensure that each employee is properly trained in accordance with the minimum requirements prescribed in this subpart.

(b) The requirements of this subpart apply to each person who—

(1) Classifies hazardous materials;

(2) Packages hazardous materials;

(3) Marks and labels packages containing hazardous materials;

(4) Prepares shipping papers for hazardous materials;

(5) Offers or accepts hazardous materials for transportation;

(6) Handles hazardous materials (e.g., loads, unloads, secures, or stores in transit);

(7) Marks or placards transport vehicles, bulk packagings or freight containers;

(8) Operates or crews transport vehicles, aircraft, or vessels;

(9) Is employed in a transportation facility and performs functions in proximity to hazardous materials which are in transportation; or

(10) Otherwise performs functions subject to the provisions of this subchapter, such as inspecting or testing specification packagings or representing, marking, certifying, selling or offering packagings as meeting the requirements of this subchapter or an exemption issued under Subchapter B of this chapter.

(c) For purposes of this subchapter, a person who performs any function in proximity to a hazardous material during the course of its transportation (e.g., in warehouses and terminals) is considered to be performing a function related to the transportation of hazardous materials, even though that person may not be involved directly in handling the hazardous material.

(d) A person (including a self-employed person) who performs any function subject to the requirements of this subchapter may not perform that function unless that person has been trained in accordance with the requirements prescribed in this subpart.

§ 172.704 Training requirements.

(a) Persons subject to the requirements of this subpart shall be provided the following training:

(1) *General awareness/familiarization training.* Each person shall be provided training designed to provide familiarity with the general provisions of this subchapter, such as the hazard communication requirements of Subparts C, D, E, and F of this part and the various classes of hazardous materials.

(2) *Function specific training.* Each person shall be provided detailed training concerning requirements of this subchapter which are specifically applicable to the functions the person performs.

(3) *Safety training.* Each person who performs any function in proximity to a hazardous material, and each first line supervisor of that person, shall be provided training concerning safety information applicable to the hazardous material and their job function, including—

(i) Emergency response information required by this part, and how to use it;

(ii) General dangers presented by the various hazard classes of hazardous materials and how persons can protect themselves from exposure to those hazards, including the use of personal protective clothing and equipment;

(iii) Methods and procedures for accident avoidance, such as proper use of package handling equipment; and

(iv) The immediate procedures to be followed in the event of an unintentional release of a hazardous material, including any emergency response procedures for which the person is responsible and personal protection procedures to be followed if exposed to a hazardous material. (Note: In addition to any applicable requirements of this subchapter, training requirements are prescribed in 29 CFR 1910.120 for employees for whom there exists the reasonable possibility of responding to emergencies.)

(b) *Initial and recurrent training.* Training shall be received within 30 days, except that persons employed prior to [Insert effective date of rule] shall receive training prior to [Insert date 30 days from effective date of rule]. Employees requiring training may be used in their hazardous materials job functions while they are being trained if they are under the supervision of a properly trained and knowledgeable employee. A person shall be retrained:

(1) upon change to a job function subject to this subpart, within 30 days; and

(2) at least once every two years.

(c) *Recordkeeping.* A record of the training provided as required by this subpart and § 177.816 of this subchapter, shall be created and retained by the employer for as long as the person is employed and for 90 days thereafter. The record shall include—

(1) The person's name and signature;

(2) The date the person was provided the training;

(3) A copy of the training material, a reference indicating the location of a readily available copy thereof, or a description of the training given; and

(4) The name and signature of the person providing the training.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

6. The authority citation for Part 173 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

7. In § 173.1, paragraph (b) would be revised to read as follows:

§ 173.1 Purpose and scope.

* * * * *

(b) A shipment that is not prepared for shipment in accordance with this subchapter may not be offered for transportation by air, highway, rail, or water. It is the duty of each person who offers hazardous materials for transportation to instruct each of their officers, agents and employees having any responsibility for preparing hazardous materials for shipment in the applicable regulations as specified in Part 172, Subpart H of this subchapter.

* * * * *

PART 174—CARRIAGE BY RAIL

8. The authority citation for Part 174 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR Part 1, unless otherwise noted.

9. Section 174.7 would be revised to read as follows:

§ 174.7 Responsibility for compliance and training.

(a) Unless this subchapter specifically provides that another person must perform a particular duty, each carrier, including a connecting carrier, shall perform the duties specified and comply with all applicable requirements of this part and shall instruct its employees in relation thereto.

(b) Each employer of a person subject to the requirements of this subpart shall provide that person with the training required by Subpart H of Part 172 of this subchapter.

(c) A carrier may not transport a hazardous material by rail unless each train crewmember receives the training required by Subpart H of Part 172 of this subchapter.

PART 175—CARRIAGE BY AIRCRAFT

10. The authority citation for Part 175 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

11. Section 175.20 would be revised to read as follows:

§ 175.20 Compliance and training.

(a) Unless this subchapter specifically provides that another person must perform a particular duty, each operator shall comply with all applicable requirements in Parts 107, 171, 172, 173, and 175 of this subchapter and shall thoroughly instruct employees in relation thereto. (See also 14 CFR 121.135, 121.401, 121.433a, 135.323, 135.327 and 135.333.)

(b) Each employer of a person subject to the requirements of this subpart shall provide that person with the training required by Subpart H of Part 172 of this subchapter.

(c) An aircraft operator may not transport a hazardous material by aircraft unless each crewmember receives the training required by Subpart H of Part 172 of this subchapter.

PART 176—CARRIAGE BY VESSEL

12. The authority citation for Part 176 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806(b), 1808; 49 CFR Part 1, unless otherwise noted.

13. Section 176.13 would be revised to read as follows:

§ 176.13 Responsibility for compliance and training.

(a) Unless this subchapter specifically provides that another person must perform a particular duty, each carrier, including a connecting carrier, shall perform the duties specified and comply with all applicable requirements in this part and shall instruct employees in relation thereto.

(b) Each employer of a person subject to the requirements of this part shall provide that person with the training required by Subpart H of Part 172 of this subchapter.

(c) A carrier may not transport a hazardous material by vessel unless each crewmember receives the training required by Subpart H of Part 172 of this subchapter.

(d) A record of training required by § 172.704(c) must be kept on board any vessel with crewmembers subject to the training requirements of this subchapter.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

14. The authority citation for Part 177 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805; 49 CFR Part 1, unless otherwise noted.

§ 177.800 [Amended]

15. In § 177.800, the last sentence of paragraph (a) would be removed.

16. Section 177.800a would be added to read as follows:

§ 177.800a Responsibility for compliance and training.

(a) Unless this subchapter specifically provides that another person must perform a particular duty, each carrier, including a connecting carrier, shall perform the duties specified and comply with each applicable requirement of this part and shall instruct employees in relation thereto.

(b) Each employer of a person subject to the requirements of this subpart shall provide that person with the training required by Subpart H of Part 172 of this subchapter.

(c) A carrier may not transport a hazardous material by motor vehicle unless each driver and crewmember receives the training required by this part and Subpart H of Part 172 of this subchapter.

17. Section 177.816 would be revised to read as follows:

§ 177.816 Driver training.

(a) In addition to the training prescribed in Subpart H of Part 172 of this subchapter, each driver shall receive training concerning the applicable requirements of 49 CFR Parts 383, 387, 390 through 399 and the procedures necessary for the safe operation of the motor vehicle which the driver operates or intends to operate. Training shall include the following subjects:

(1) Pre-trip safety inspection;

(2) Use of vehicle controls and equipment, including operation of emergency equipment;

(3) Operation of vehicle including turning, backing, braking, parking and handling, and vehicle characterisitics such as those related to vehicle instability, effects of braking and curves on stability, effects of speed on vehicle control, dangers associated with maneuvering through curves such as on and off ramps, and high center of gravity;

(4) Procedures for navigating tunnels, bridges, and railroad crossings; and

(5) Requirements pertaining to attendance of vehicles, parking, smoking, routing and incident reporting.

(6) Loading and unloading of materials, including—

(i) Mixed load cargo compatibility and segregation;

(ii) Package handling methods;

(iii) Load securement.

(b) *Specialized requirements for cargo tanks and portable tanks.* No person may operate a cargo tank, or a vehicle carrying a portable tank with a capacity of 1000 gallons or more, unless that person receives training on appropriate practices and procedures and the applicable requirements of Subchapter C and has the appropriate state issued license as required by Part 383. In addition to the requirements of paragraph (a) of this section, training shall include the following:

(1) Operation of emergency control features of the cargo tank or portable tank;

(2) Special vehicle handling characteristics to include: high center of gravity, fluid load subject to surge, effects of possible product surge on braking, characteristic differences in stability among baffled, unbaffled and multi-compartmented tanks; and effects of partial loads on vehicle stability;

(3) Loading and unloading procedures;

(4) The properties and hazards of the material transported;

(5) Retest and inspection requirements for cargo tanks, and;

(c) The training required by paragraphs (a) and (b) of this section must conform to the requirements of § 172.704 of this subchapter with regard to the frequency of training and recordkeeping.

18. In § 177.825, paragraph (d) would be revised to read as follows:

§ 177.825 Routing and training requirements for radioactive materials.

* * * * *

(d) No person may transport a package of highway route controlled quantity radioactive materials as defined in § 173.403(1) of this subchapter, on a public highway unless:

(1) The driver has received training as required by Subpart H of Part 172 and § 177.816.

(2) The driver has in his immediate possession a copy of the record of training required by § 172.704.

(3) The driver has in his immediate possession the route plan required by paragraph (c) of this section and operates the motor vehicle in accordance with the route plan.

* * * * *

Issued in Washington, DC on July 20, 1989 under authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 89-17451 Filed 7-25-89; 8:45 am]

BILLING CODE 4910-60-M

federal register

Wednesday
July 26, 1989

Part IV

Department of Transportation

Research and Special Programs Administration

49 CFR Part 172

Classification of Gases Which Are Toxic by Inhalation; Proposed Rule

DEPARTMENT OF TRANSPORTATION

49 CFR Part 172

[Docket No. HM-181, Notice No. 89-5]

RIN 2137-AA01

Classification of Gases Which Are Toxic by Inhalation

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: RSPA is modifying the proposals contained in Docket HM-181, Notice 87-4 (52 FR 42772) to retain the current classification of anhydrous ammonia as a nonflammable gas, rather than to reclassify the material as a poisonous gas, with the addition of an "INHALATION HAZARD" warning as a mechanism for hazard communication. This action is being taken so that RSPA can address other substantive issues under Docket HM-181 in a timely manner.

ADDRESSES: Address comments to the Dockets Unit, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590. Comments should identify the docket and notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Public dockets may be reviewed between the hours of 8:30 a.m., and 5:00 p.m., Monday through Friday, except holidays.

DATE: Comments must be received on or before October 24, 1989.

FOR FURTHER INFORMATION CONTACT: Ann Boylan, Standards Division, telephone (202) 366-4488, or James K. O'Steen, Chief, Technical Division, telephone (202) 366-4545, Office of Hazardous Materials Transportation, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On May 5, 1987, RSPA published a notice of proposed rulemaking (NPRM) (Docket No. HM-181; Notice 87-4) in the **Federal Register** (52 FR 16482) that proposed sweeping changes in the Hazardous Materials Regulations (HMR), including the adoption of performance-oriented packaging standards and changes in hazard communication, hazard classification and bulk packaging requirements. Notice 87-4 was republished on November 6, 1987 (52 FR 42772), containing corrections and supplemental proposals to the May 5, 1987 publication.

RSPA received over one thousand comments in response to Notice 87-4, at least seven hundred of which addressed the proposed classification criteria for poisonous gases. Particular and widespread attention was directed to the proposal to change the classification of anhydrous ammonia from a nonflammable gas to a poisonous gas. In reviewing these comments, RSPA noted some specific points of misunderstanding and a lack of sufficient information concerning potential impacts arising from the proposed action. As a result, RSPA published a supplemental NPRM in the **Federal Register** on November 14, 1988 (Notice 88-7; 53 FR 45868). Notice 88-7 sought to clarify the reclassification proposals, suggested possible regulatory alternatives, and requested substantive comments on potential impacts. The interested reader is referred to Notice 88-7 for additional background information.

RSPA issued its proposal because the classification "poisonous gas" would be the most accurate technical description of the inhalation hazards of anhydrous ammonia in accordance with the definition proposed in § 173.115(c). Over four hundred and fifty comments were received in response to Notice 88-7. Although RSPA has not completed a thorough review of these comments, they do reveal significant controversy concerning the proposed reclassification based on various claims of severe potential adverse impacts.

RSPA has not had the opportunity to perform, or have performed, a comprehensive evaluation of this issue to document potential impacts. An evaluation of this nature would entail, at a minimum, a quantitative analysis of current freight and insurance rates and any potential changes to those rates and an assessment of current and projected insurance and transportation availability. It would be a resource-intensive undertaking. Further delay in resolving this issue may be unacceptable to the regulated industry, particularly the farm community. Also because of the drain on RSPA's limited resources which this issue has entailed, it would be counterproductive to accomplishment of the overall rulemaking action on other important aspects of Docket HM-181. Failure to move HM-181 forward in a timely manner would further delay its other important safety initiatives. Delay may also impose on U.S. industry an impediment to international trade because after December 31, 1990, certain transitional packaging provisions contained in international regulations, under which DOT packagings are currently acceptable, will expire. RSPA believes that the safety advantages of proposing reclassification in this docket do not justify the further delay that would be necessary at this time to fully evaluate the claimed potential impacts. Therefore, RSPA has elected to pursue an alternative to the proposed reclassification which does not entail the claimed potential impacts, but would improve the communication of hazard for anhydrous ammonia.

One of the possible options discussed in the supplemental notice was reclassification of anhydrous ammonia as a corrosive gas. Although the Canadian regulations classify anhydrous ammonia as a corrosive gas, RSPA believes that the corrosive gas classification has three important shortcomings. First, use of corrosive gas would require the creation of a new classification catetory ("corrosive gas") which is not a part of U.S. or international hazardous materials regulations. A corrosive gas class would complicate the total classification system and create an important inconsistency with the international classification system. International hazardous materials transportation regulations classify anhydrous ammonia as a poisonous and flammable gas. Second, creation of a corrosive gas class could raise questions about the reclassification of a number of other

materials. The Canadian corrosive gas class includes a number of chemicals, some of which are as much as ten times more toxic than anhydrous ammonia. RSPA believes that adoption of a corrosive gas classification for materials with such severe inhalation hazards would not provide a sufficient level of hazard communication for these materials. Third, classification of anhydrous ammonia as a corrosive gas may have the same impact as alleged for the poisonous gas classification, that is, it may result in increased insurance and transportation costs.

As RSPA has noted throughout its deliberations on the HM–181 rulemaking, communication to emergency responders and the general public is an important safety consideration. For emergency responders, the presence of a label or placard and the four-digit identification number ("UN1005" for anhydrous ammonia), when used with the DOT Emergency Response Guidebook, provides quick and accurate identification of a material and its hazards. In contrast, the symbol on the label or placard and packaging markings are the primary way the general public is informed of the hazard posed by a material. Although the international poison symbol (skull and crossbones) in combination with a inhalation hazard marking would provide an incremental enhancement in the communication of the hazard of anhydrous ammonia to the public, that enhancement may not be justified when measured against the claimed potential adverse impacts. RSPA believes that an inhalation marking in combination with a nonflammable gas label or placard would improve the current communication of anhydrous ammonia's inhalation hazard for both emergency responders and the general public with minimal impact on shippers, transporters, and users.

Therefore, under the materials classification scheme proposed in HM–181, RSPA is now proposing to classify anhydrous ammonia as a Division 2.2 nonflammable compressed gas for domestic transportation, consistent with its classification under current regulations. Because of the documented inhalation hazards of anhydrous ammonia when released in large quantities, RSPA is also proposing to require the words "INHALATION HAZARD" on packages and shipping papers, in addition to other current hazard communication requirements. The choice of this alternative will enable RSPA to progress with the HM–181 rulemaking, improve hazard communication for anhydrous ammonia and minimize any potential adverse impacts.

Review by Sections

Section 172.101

In Notice 87–4 on page 42793 the Hazardous Materials Table is modified by adding a new entry for "Ammonia, anhydrous liquefied", with (a) a "D" in column (1) to indicate that this entry is for domestic transportation, (b) the hazard class of "2.2" in column (3), and (c) the label of "NONFLAMMABLE GAS" in column (6). The existing entry on page 42793 for "Ammonia, anhydrous liquefied" is revised by placing an "I" in column (1), to indicate that this entry is acceptable for describing the material for international transportation.

Section 172.102

In the table of special provisions on page 42932, a new code 14 would be added, proposing that the words "Inhalation Hazard" be entered on a shipping paper in association with the shipping description and be marked on the package in association with the required label or placards.

Administrative Notices

Executive Order 12291

The RSPA has determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is "significant" under DOT's regulatory policies and procedures (44 FR 11034); (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) A regulatory evaluation is available for review in the Docket.

Executive Order 12612

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Impact on Small Entities

Based on the minimal impact of the proposals contained herein, I certify that the regulations proposed herein would not, if adopted, have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 172

Hazardous materials transportation.

PART 172—[AMENDED]

Docket HM–181, Notice No. 87–4, published on May 5, 1987 (52 FR 16482) is modified as follows:

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATION

1. The authority citation for Part 172 continues to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1808; 49 CFR Part 1, unless otherwise noted.

§ 172.101 [Amended]

2. In the Hazardous Materials Table on page 42793, the proposed entry for "Ammonia, anhydrous liquefied" is revised and a new entry is added to read as follows:

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification Numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§ 172***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
ADD:														
D	Ammonia, anhydrous liquefied.	2.2	UN1005		NONFLAMMABLE GAS.	14	None	304	314, 315	Forbidden.	Forbidden.	1.2	5	40, 57
REVISE														
I	Ammonia, anhydrous liquefied.	2.3	UN1005	III	POISON GAS.	10	None	304	314, 315	Forbidden.	Forbidden.	1.2	5	40, 57

3. On page 42932 paragraph (c)(1) of § 172.102, a new Code 14 would be added in proper numerical order as follows:

Code	Special provisions
* * * * *	
14	The words "Inhalation Hazard" shall be entered on each shipping paper in association with the shipping description, shall be marked on each non-bulk package in association with the proper shipping name and identification number, and shall be marked on two opposite sides of each bulk package. Size of markings on bulk packages must conform to § 173.302(b) of this subchapter.
* * * * *	

Issued in Washington, DC on July 21, 1989 under authority delegated in 49 CFR Part 1.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 89-17475 Filed 7-25-89; 8:45 am]

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Federal Register

Wednesday
July 26, 1989

Part V

The President

Executive Order 12683—Prescribing Regulations Relating to Certain Travel Time of Members of the Uniformed Services Called to Active Duty

Presidential Documents

Vol. 54, No. 142

Wednesday, July 26, 1989

Title 3—

The President

Executive Order 12683 of July 21, 1989

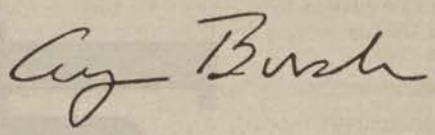
Prescribing Regulations Relating to Certain Travel Time of Members of the Uniformed Services Called to Active Duty

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 204(b) of title 37, United States Code, it is hereby ordered that Executive Order No. 10153, as amended by Executive Order No. 10649, is further amended as follows:

1. Section 1 is amended to read:

"Section 1. For travel from home to first duty station and from the last duty station to home, the travel time included as active duty shall be the same as the allowable travel time based on the mode(s) of travel authorized, not to exceed actual travel time. The travel time included as active duty shall be computed on the basis of regulations prescribed by the Secretaries concerned, which regulations shall be uniform among the uniformed services. The distance traveled shall be computed on the basis of distances established by the official mileage tables in use by the uniformed services.".

2. Section 2 is deleted, and Sec. 3 and Sec. 4 are renumbered Sec. 2 and Sec. 3, respectively.



THE WHITE HOUSE,
July 21, 1989.

[FR Doc. 89-17662
Filed 7-25-89; 11:12 am]
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